Laws, Resolutions and Memorials

OF THE

STATE OF MONTANA

PASSED BY THE

Twenty-ninth Legislative Assembly
In Regular Session

Held at Helena, the Seat of Government of Said State,
Commencing January 1st, 1945, and
Ending March 1st, 1945.

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CERTIFICATE OF AUTHENTICATION

State of Montana
Department of } ss.
Secretary of State

I, Sam W. Mitchell, Secretary of State of the State of Montana, do hereby certify that the printed laws, resolutions and memorials contained herein are true and correct copies of all the enrolled laws, resolutions, memorials and appropriations that were passed by the twenty-ninth legislative assembly of the State of Montana, commencing January 1, 1945 and concluding March 1, 1945.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Montana, at Helena, the Seat of Government, this first day of May, A. D., 1945.

THE GREAT SEAL
of the
State of Montana.

Sam W. Mitchell

Secretary of State.

OFFICERS AND MEMBERS

OF THE

Twenty-ninth Legislative Assembly of the State of Montana

1945

Governor: SAM C. FORD
Lieutenant Governor and President of the Senate: ERNEST T. EATON
Speaker of the House: GEO. W. O'CONNOR

Members of Senate

NAME	Residence	County	Politics
*Arnold, S. C.	Broadview	Stillwater	Republican
Aronson, J. Hugo	Cut Bank	Glacier	Republican
Baker, Dr. A. A.	Glendive	Dawson	Republican
Balgord, Oscar P	Lavina	Golden Valley	Republican
Bourassa, J. B.	Flaxville	Daniels	Democrat
Boyd, Johnston R.	Wyola	Big Horn	Republican
Bridenstine, Ellemore M.	Terry	Prairie	Republican
*Burke, Tom	Billings	Yellowstone	Republican
*Campbell, John L.	Missoula	Missoula	Republican
*Carrington, Miles F.	Plevna	Fallon	Republican
*Cole, Kenneth	Winnett	Petroleum	Republican
*Cooper, George R.	Superior	Mineral	Republican
*Cotton, Robert	Glasgow	Valley	Democrat
D'Ewart, Wesley A.	Wilsall	Park	Republican
Ecton, Zales N.	Manhattan	Gallatin	Republican
†Fewkes, D. F.	Troy	Lincoln	Republican
*Gabisch, George	Townsend	Broadwater	Republican
‡Gosman, Geo. M.	Dillon	Beaverhead	Republican
Hageman, Arthur	Jordan	Garfield	Republican
*Haight, Herbert H.	Suffolk	Fergus	Democrat
*Hammond, W. L.	Carlyle	Wibaux	Democrat
*Henderson, M. R.	Hall	Granite	Republican
Hofland, J. M.	Vida	McCone	Democrat
*Hollingsworth, V. C.	Hamilton	Ravalli	Republican
Keeley, W. E.	Deer Lodge	Powell	Republican
Kellogg, Glen C.	Conrad	Pondera	Republican
*Larson, Glenn H.	Thompson Falls	Sanders	Republican
*Leo, W. A.	Sidney	Richland	Democrat
Liggett, J. A.	Roundup	Musselshell	Republican
*Lott, Mortimer J.	Twin Bridges	Madison	Republican
*Lynch, Austin E.	Fort Benton	Chouteau	Democrat
*McKenna, George	Geyser	Judith Basin	Democrat
*McQuitty, E. F.	Harlowton	Wheatland	Democrat
Manning, D. M.	Hysham	Treasure	Democrat
*Moss, G. M.	Whitefish	Flathead	Republican
*Mullholland, M. J.	Butte	Silver Bow	Democrat
Mundy, G. F.	Gildford	Hill	Republican
Olmstead, Leon C.	Big Timber	Sweet Grass	Republican
*Peck, W. H.	Ekalaka	Carter	Republican
Plank, Leonard	Chester	Liberty	Democrat
Potter, John V.	Wh. Sulphur Spgs.	Meagher	Republican
*Rice, Paul	Bynum or Pendroy	Teton	Democrat
Robinson, Fred L.	Malta	Phillips	Republican
Ross, Thomas A.	Chinook	Blaine	Republican
Sawtell, Henry J.	Miles City	Custer	Republican
Simmons, H. A.	Red Lodge	Carbon	Republican
Smith, Sherman W.	Helena	Lewis and Clark	Republican
Stewart, Sid G.	Anaconda	Deer Lodge	Republican
*Stewart, G. D.	Forsyth	Rosebud	Republican
*Stromnes, E. J.	Great Falls	Cascade	Democrat
*Sullivan, M. J.	Alhambra	Jefferson	Democrat
Toman, J. Fred	Bowers	Powder River	Republican
*Tyler, R. G.	Homestead	Sheridan	Democrat
Wallace, Lloyd I.	Polson	Lake	Republican
Wallander, S. B.	Frold	Roosevelt	Republican
*Wilson, Geo. W.	Shelby	Toole	Democrat

*Holdover
†To fill the vacancy caused by the death of M. D. Rowland.
‡To fill the vacancy caused by the death of Thos. E. Gilbert.

Secretary of the Senate: CLAUDE J. McALLISTER, Helena.
President Pro Tem: S. C. ARNOLD, Broadview.

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House of Representatives

NAME	Residence	County	Politics
Anderson, Eric	Regina	Phillips	Republican
Anson, Don E.	Wisdom	Beaverhead	Republican
Antrim, Stanley	Stevensville	Ravalli	Democrat
Armstrong, Ory J.	Kalispell	Flathead	Republican
Atkinson, A. L.	Ronan	Lake	Republican
Baldwin, C. J.	Billings	Yellowstone	Republican
Ballard, W. T.	Butte	Silver Bow	Democrat
Banka, Walter	Brady	Pondera	Democrat
Barnard, Lloyd	Saco	Valley	Democrat
Blenkner, E. A.	Columbus	Stillwater	Republican
Blewett, Alex	Butte	Silver Bow	Republican
Bovey, Charles A.	Great Falls	Cascade	Democrat
Bricker, Ralph C.	Great Falls	Cascade	Republican
Brumbaugh, D. J.	Billings	Yellowstone	Republican
Busch, L. W.	Baker	Fallon	Republican
Chaffin, Dean	Bozeman	Gallatin	Republican
Christy, Fred B.	Butte	Silver Bow	Democrat
Cole, N. A.	Terry	Prairie	Democrat
Cormack, George	Decker	Big Horn	Republican
Dahl, Andrew	Dagmar	Sheridan	Democrat
Dallas, Clarence A.	Winston	Broadwater	Republican
Dougherty, James N.	Elliston	Powell	Democrat
Duncan, Philip C.	Whitehall	Jefferson	Democrat
Dunn, Robert J.	Bozeman	Gallatin	Republican
Esp, Leonard J.	Big Timber	Sweet Grass	Republican
Evans, Troy	Butte	Silver Bow	Republican
Eynon, A. W.	Circle	McCone	Republican
Fallan, Ole E.	Wilsall	Park	Republican
Foot, E. B.	Kallspell	Flathead	Republican
Gebhardt, R. H.	Billings	Yellowstone	Republican
Goffena, L. W.	Roundup	Musselshell	Republican
Graybill, Leo C.	Great Falls	Cascade	Democrat
Greenan, Phil G.	Great Falls	Cascade	Democrat
Gunderson, Ole S.	Power	Cascade	Democrat
Hall, Earl H.	Gardiner	Park	Democrat
Harken, R. C.	Forsyth	Rosebud	Democrat
Harlow, Paul K.	Thompson Falls	Sanders	Democrat
Harrison, J. Scott	Helena	Lewis and Clark	Republican
Hazelbaker, Frank W.	Missoula	Missoula	Republican
Healy, John V.	Butte	Silver Bow	Democrat
Holding, Oscar	Missoula	Missoula	Democrat
Higgins, Chas. R.	Browning	Glacier	Republican
Holliday, Sanford M.	Martinsdale	Meagher	Democrat
Horrigan, Frank W.	Philipsburg	Granite	Republican
Howard, John	Jordan	Garfield	Republican
Hughes, Gerald H.	Stanford	Judith Basin	Republican
Hunter, Dr. W. L.	Helena	Lewis and Clark	Republican
James, David F.	Joplin	Liberty	Democrat
Kemmis, Walter D.	Sidney	Richland	Republican
Kimpel, G. C.	Hingham	Hill	Republican
Krall, J. A.	Libby	Lincoln	Republican
Krieg, Fred C.	Billings	Yellowstone	Republican
Lehrkind, Carl, Jr.	Bozeman	Gallatin	Democrat
Little, Dighton	Missoula	Missoula	Democrat
Loughran, M. J.	Butte	Silver Bow	Democrat
Lowe, Ray G.	Glendive	Dawson	Republican
McCleery, O. R.	Glasgow	Valley	Democrat
McDaniel, A. N.	Polson	Lake	Republican
McGreevey, Barney	Anaconda	Deer Lodge	Democrat
Martin, C. Lester	Harrison	Madison	Republican
Marty, Oscar	Big Sandy	Chouteau	Democrat
Mayo, J. A.	Superior	Mineral	Republican
Minnick, Dr. R. P.	Hysham	Treasure	Democrat
Moen, Leonard W.	Culbertson	Roosevelt	Republican
Nelson, Wm. J.	Barber	Golden Valley	Democrat
O'Connell, M. D.	Butte	Silver Bow	Democrat
O'Connor, Geo. W.	Fromberg	Carbon	Republican
Oliver, John	Ekalaka	Carter	Republican
Padbury, Fred H.	Helena	Lewis and Clark	Republican
Page, Winfield E.	Missoula	Missoula	Republican
Parker, Clem	Wibaux	Wibaux	Democrat
*Parker, Neil C.	Creston	Flathead	Republican
Parker, Ralph A.	Sun River	Cascade	Democrat
Patterson, Robert A.	Havre	Hill	Democrat
Phillips, Robert J.	Lewistown	Fergus	Republican
Pierce, Geo. R.	Billings	Yellowstone	Republican
Rasmussen, A. J.	Harlem	Blaine	Democrat
Scofield, Chas. L.	Biddle	Powder River	Republican

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HOUSE OF REPRESENTATIVES—(Continued)

NAME	Residence	County	Politics
Settle, Edward J.	Martinsdale	Wheatland	Republican
Simpson, Milton C.	Volborg	Custer	Republican
Stout, Tom	Lewistown	Fergus	Democrat
Taber, C. J.	Hamilton	Ravalli	Republican
Taylor, E. N.	Scobey	Daniels	Republican
Teigen, Peter M.	Teigen	Petroleum	Republican
Thomas, Phil D.	Anaconda	Deer Lodge	Republican
Tierney, Frank	Butte	Silver Bow	Democrat
Toole, Jack C.	Ferdig	Toole	Democrat
Udin, Al	Fairfield	Teton	Democrat
Williams, C. J.	Billings	Yellowstone	Republican
Wilson, S. P.	Boyd	Carbon	Republican

*Deceased, March 20, 1945.

Chief Clerk: L. R. KNOX, Helena.

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198		239	An Act to Revive Sections 12,522, 12,523, 12,528, 12,530, 12,531 and 12,534, Revised Codes of Montana, 1935, Repealed By Chapter 32, Laws of 1943; and to Repeal Section 3, Chapter 32, Laws of 1943; Relating to Appointment of Executive Board of the State Vocational School for Girls; the Oath and Bond of Members; the Meetings of the Board and Compensation of Members; Annual Report of Executive Board and Vacancies; Term of Office of Ex-officio and Other Members; Powers of the Executive Board; to Provide for the Appointment of An Executive Board; All of the Above Laws and Sections Relating to the State Vocational School for Girls.	449
199	42		An Act to Amend Sections 2, 7, 8, 9, 20, 21 and 26 of Chapter 208 of the Session Laws of Montana, 1939, Relating Respectively to the Definition of Commensurate Property; Standardizing the Forms Providing for Repeals; Regulating the Incorporation of Districts; Defining Preferential Rights; Fixing the Time of Filing Appeals; and Providing Penalties for Trespassing; Providing for Fencing Boundaries; Abandonment of Districts; Preferences to Range; the Taking Up and Sale of Trespassing Livestock; All Relating to the Grass Conservation Act; and Repealing All Acts and Parts of Acts in Conflict Herewith.	452
200		153	An Act to Amend Section 1760 of the Revised Codes of 1935 As Amended By Chapter 138 of the Laws of Montana Enacted By the Twenty-fifth Legislative Session of 1937, As Amended By Chapter 125 of the Laws of Montana Enacted By the Twenty-sixth Legislative Session of 1939, As Amended By Chapter 154 of the Laws of Montana Enacted By the Twenty-eighth Session Laws of 1943 and All Other Acts Amendatory Thereof; Relating to Allocation of Net Fees Derived from Registration of Motor Vehicles to Cities Having a Population of 10,000 or More, or Construction of Highways Within the Boundary of Such Incorporated Cities, and Relating to Disposition of Motor Vehicle Taxes and License Fees, Relating to Registration of Motor Vehicle Fees, Disposal of Proceeds, Fee for Half Year, Dealers' Registration and Transfer Thereof, and Exempting Public Owned Vehicles; and Providing Fees for Tractors, Defining Same, and Fees for Trailers and Semi-trailers and Providing for Disposition of Said Fees and License Fees, and Providing for Transfer from the Motor Vehicle Fund of the Registrar of Motor Vehicles to the Motor Vehicle Recording Fund (Sometimes Called the Motor Vehicle Administrative Fund) of All Moneys Now in Said Motor Vehicle Fund Which Were Collected By the Registrar As Fees Other Than License Fees, and Providing That Hereafter All Fees, Other Than License Fees, Except Dealers License Fees, Mentioned and Described in Sections 1758.3 and 1758.4, Both As Amended By Chapter 72 of the Laws of the Twenty-fifth Legislative Assembly of the State of Montana for 1937, and All Other Acts Amendatory to Either of Such Sections, and in Section 1763.3 of the Revised Codes of Montana for 1935, Shall Be Deposited in the Motor Vehicle Recording Fund of Said Registrar (Sometimes Called the Motor Vehicle Administrative Fund); and Providing for	

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			the Distribution of Moneys in Said Motor Vehicle Recording Fund (Sometimes Called the Motor Vehicle Administrative Fund), and Eliminating As An Expense to the Counties of the Making and Delivering of License Plates and Identification Marks, Certificates and All Other Expenses of Operating the Motor Vehicle Department of the State of Montana.	463
201		157	An Act to Amend Section 1760 of the Revised Codes of Montana for 1935, As Amended By Chapter 138 of the Laws of the Twenty-fifth Legislative Assembly of the State of Montana for 1937 and By Chapter 125 of the Laws of the Twenty-sixth Legislative Assembly of the State of Montana for 1939 and By Chapter 154 of the Laws of the Twenty-eighth Legislative Assembly of the State of Montana for 1943, Relating to Registration of Motor Vehicles, Fees, Disposal of Proceeds, Fee for Half Year, Dealers' Registration and Transfer Thereof, and Exempting Public Owned Vehicles; and Providing Fees for Tractors, Defining Same, and Fees for Trailers and Semi-trailers, and Providing for Disposition of Said Fees and License Fees, and Providing for Transfer from the Motor Vehicle Fund of the Registrar of Motor Vehicles to the Motor Vehicle Recording Fund (Sometimes Called the Motor Vehicle Administrative Fund) of All Moneys Now in Said Motor Vehicle Fund Which Were Collected By the Registrar As Fees Other Than License Fees, and Providing that Hereafter All Fees Other Than License Fees, Except Dealer License Fees, Mentioned and Described in Sections 1758.3 and 1758.4, Both As Amended By Chapter 72 of the Laws of the Twenty-fifth Legislative Assembly of the State of Montana for 1937, and All Other Acts Amendatory to Either of Such Sections, and in Section 1763.3 of the Revised Codes of Montana for 1935, Shall Be Deposited in the Motor Vehicle Recording Fund of Said Registrar (Sometimes Called the Motor Vehicle Administrative Fund); and Providing for the Distribution of Moneys in Said Motor Vehicle Recording Fund (Sometimes Called the Motor Vehicle Administrative Fund).	470
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203		200	An Act Requiring the Owners, Operators and Conductors of All Hotels, Restaurants, Cafes, Eating Houses, Eating Places, Lunch Counters and Lunch Bars, to Provide, Within the Physical Area Occupied By Such Places, and Keep Accessible, Suitable Retiring Rooms Where Employees May Have Ready Access to Toilets and Sanitary Facilities, and Cleansing Agents, Charging the State Board of Health With the Duty of Enforcing This Act, Providing Penalties for Violation Hereof and for Forfeiture of License, and Repealing All Acts and Parts of Acts in Conflict Herewith.	477
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			Building", As a Memorial to the War Veterans and Pioneers of the State, and to House the Property and Staff of the Historical Society of Montana, the Society of Montana Pioneers, Sons and Daughters of Montana Pioneers, and of the War Veterans Organizations Set Forth in Chapter 131, Laws of the Twenty-sixth Legislative Assembly of the State of Montana 1939; Authorizing the Issuance and Sale of Bonds By the State for Such Purpose; Designating the Funds from Which Said Bonds Shall Be Paid; Providing for An Interest and Sinking Fund; Enumerating the Powers and Duties of the State Board of Examiners and of the Veterans' Memorial Fund Commission in Carrying Out the Provisions of This Act; Pledging and Appropriating All Balances Now In or That May Accrue to the Capitol Building Land Grant and the Veterans Memorial Fund to the Payment of Construction Costs and Retirement of Bonds Authorized By This Act; Authorizing the State to Receive Gifts for the Erection or Maintenance of Said Memorial Building and Providing That If Any Section or Part of This Act Be Void or Ineffective It Shall Not Be Deemed to Affect Any Other Section or Part Hereof and Repealing Chapter 79 of the Laws of the Twenty-seventh Legislative Assembly and All Acts and Parts of Acts in Conflict Herewith.	478
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210		197	An Act to Amend Section 3228.3 Revised Codes of Montana, 1935, As Amended By Chapter 222 Laws of the Twenty-sixth Legislative Assembly of Montana, 1939, Relating to Requirements for Practicing or Teaching Cosmetology By Changing the Age to Not Less Than Sixteen Years, and Eliminating the Requirement of Graduate of High School: Repealing All Acts in Conflict and Providing An Effective Date.	493
211		248	An Act to Amend Section 3228.1 of the Revised Codes of Montana, 1935, As Amended By Chapter 222 of the Session Laws of the Twenty-sixth Legislative Assembly, 1939, and As Amended By Chapter 80 of the Session Laws of the Twenty-seventh Legislative Assembly, 1941, Relating to the Regulation of the Practice of Cosmetology and Hair Dressing and Relating to the License Required to Practice or Teach Cosmetology or the Management or Conduct At a Beauty Shop or School and Providing for the Certification of a Physically Handicapped Person Trained for Cosmetology By the State Bureau of Vocational Rehabilitation or By the Rehabilitation Division of the United States Veterans Administration.	496
212		110	An Act to Provide for the Creation, Establishment and Operation and Also the Adjustment With Other Existing Systems, of a Comprehensive Retirement System for Employees of the State of Montana and All Employees of Such Cities and Counties (Except City Policemen, City Firemen and Montana State Highway Patrol), All Within the State, As May Elect to Include Their Employees Pursuant to Contract With the Board of Administration of Such System, to Be Known As the Public Employees' Retirement System and Making An Appropriation Therefor, and Providing That This Act Shall Not Be Subject to the Provisions of the Budget Act.	498
213	114		An Act to Amend Section 2916 of the Revised Codes of Montana, 1935, As Amended By Chapter 128 of the Session Laws of 1943, Formerly Relating to Additional Compensation in Case Death Occurs While Employee Is Drawing or Entitled to Draw Compensation Payment, But, By the Amendment, Now Relating to Payment of Burial Expense and Providing That Payment Therefor Is Not a Part of the Compensation; and to Amend Section 2917 of the Revised Codes of Montana, 1935, As Amended By Chapter 229 of the Session Laws of 1943, Relating to Furnishing Medical and Hospital Services and Such Other Treatment As Approved By the Board, in Addition to Compensation; and to Amend Section 2918 of the Revised Codes of Montana, 1935, Relating to When Payment of Compensation Shall Commence; and to Amend Section 2919 of the Revised Codes of Montana, 1935, Relating to Manner of Payment of Compensation, and to Whom Paid; and to Amend Section 2920 of the Revised Codes of Montana, 1935, Relating to Manner of Payment of Com- Specified Injuries, and Providing That the Same Shall Not Be in Lieu of Medical and Hos-	

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99	An Act to Appropriate Money for the Montana State Library Extension Commission for the Purchase of Books for Rural Libraries and for the Salaries and Traveling Expenses of a Secretary of the State Library Extension Commission and a Library Assistant Engaged in Organizing Rural Libraries and Selecting Books Therefor, and for the Necessary Library Supplies and Equipment for the period Beginning July 1, 1945 and Ending June 30, 1947.	549
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137	An Act to Appropriate Money for the Purpose of Repayment of An Inheritance Tax Erroneously Collected.	560
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182	An Act to Appropriate Funds for the Payment of Certain Deficiency Claims Arising for Obligations Incurred By the State Industrial School.	571
288	An Act to Appropriate to the Use of the State Board of Commissioners for the Insane the Sum of Fifty Thousand Dollars ($50,000.00) to Be Used for the Construction and Maintenance of a Drainage System of the Grounds Upon Which the Montana State Hospital At Warm Springs Is Located, and the Lands Immediately Adjacent Thereto and Owned By the State of Montana, and for Fire Protection for the Buildings Thereon Located.	572
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	A Joint Resolution Recognizing and Adopting the Song, Inclusive of Lyrics and Music, "Montana" As the Official State Song of Montana, and Providing for Its Orchestration and Band Arrangements By the University of Montana and for the Use of the Song On State Occasions and By Montana Institutions and Citizens.	House Joint Resolution No. 5 640
	A Joint Resolution to the State Board of Examiners of the State of Montana, the State Board of Commissioners for the Insane, the State Board of Education, and the Executive Board Having the Immediate Direction and Control of the Montana State Training School Located At Boulder, Montana, Requesting Such Boards and the Members Thereof to Give Immediate Study to the Report and Findings of the Subcommittee On Custodial Institutions of the Committee On Appropriations of the Twenty-ninth Legislative Assembly to the End That Immediate Action May Be Had Relative to the Broadening of Present Plans for the Future Development for Betterment of Conditions At the State Hospital for the Insane, the Location of Prospective Suitable Building Sites, the Proper Care and Hospitalization of Its Patients, the Acquisition of Suitable and Necessary Farm Lands for the Support Thereof, If Found to Be Necessary; Relating to the Segregation of the Aged and Senile from the Mentally Incompetent; and Regarding the Necessity of Moving Children Now Located in the State Hospital for the Insane At Warm Springs, Montana, to the Montana State Training School At Boulder, Montana.	House Joint Resolution No. 7 642
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SESSION LAWS

CHAPTER 1

An Act to Fix the Compensation of Officers and Employees of the Twenty-ninth Legislative Assembly of the State of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Whereas existing wage scales in effect at this time present an emergency requiring that the compensation of officers and employees of the Twenty-ninth Legislative Assembly shall be paid at a higher rate than that heretofore required, or which in all probability will be hereafter required, and notwithstanding the general law fixing the compensation of officers and employees of the Legislative Assemblies and expressly without amending any such law or laws except to the extent that they shall not apply to the compensation of officers and employees of the Twenty-ninth Legislative Assembly: Preamble

Compensation shall be paid to the officers and employees of the Twenty-ninth Legislative Assembly as follows:

The secretary of the Senate, the chief clerk of the House of Representatives, the sergeant-at-arms of each house, the Senate law clerk and the House of Representatives law clerk, ten dollars ($10.00) per day each; At $10 per day.

The assistant secretary of the Senate, the assistant chief clerk of the House of Representatives; and the journal clerk, the enrolling clerk, the engrossing clerk, the bill clerk, the chief printing clerk of each house; the assistant sergeants-at-arms and chief stenographer of the Senate, the assistant sergeant-at-arms of the House of Representatives, eight dollars ($8.00) per day each; At $8 per day.

The assistant Senate law clerk and the assistant House of Representatives law clerk (in case such assistants are employed) *eight dollars ($8.00)* per day each. At $8 per day.

The assistant journal clerk, the assistant enrolling clerk, the assistant engrossing clerk, the assistant bill clerk, the assistant printing clerk, the reading clerk, the secretary to

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the sergeant-at-arms, of each house; the assistant chief stenographer, the clerk to the judiciary committee, the clerk to the finance and claims committee, two chief proof readers, and the mailing clerk, of the Senate; the clerk to the committee on judiciary of the House of Representatives, the clerk to the chief clerk of the House of Representatives, the stenographer to the secretary of the Senate, the secretary to the president of the Senate, the pay roll clerk of the House of Representatives, the secretary to the speaker of the House of Representatives, the mailing and filing clerk of the House of Representatives, the secretary to the House of Representatives appropriations committee, *seven dollars ($7.00)* per day each.

At $7 per day.

The chaplain, other committee clerks, stenographers, typists, other proof readers, door-keepers, assistant door-keepers, janitors, assistant janitors and watchmen of each house, the telephone operators, elevator operators of the House of Representatives, *six dollars ($6.00)* per day each.

At $6 per day.

Pages, *five dollars ($5.00)* per day each.

At $5 per day.

And all other employees of the Legislative Assembly not herein specifically enumerated, *six dollars ($6.00)* per day each.

At $6 per day.

Each salary herein specified shall be paid for each and every day of the entire legislative session, commencing with the date of employment of the officer or employee, save and except that any officers or employees whose services are dispensed with for any portion of the session shall receive pay only for the number of days during which services are performed by such officer or employee.

Time for which salary shall be paid.

Section 2. The salaries herein specified to be paid to officers and employees shall be effective for and shall be paid only to such officers and employees of the Twenty-ninth Legislative Assembly of the State of Montana and shall not be effective for, nor payable to the officers and employees of any subsequent Legislative Assembly.

Salaries specified payable only to officers and employees of 29th legislative assembly.

Section 3. This act shall take effect, and be in full force from and after its passage and approval.

Effective date.

Approved January 22, 1945.

CHAPTER 2

An Act Authorizing the State Board of Examiners to Em-

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ploy An Architect or Architects to Prepare Plans and Specifications for An Office Building or Addition to the Present State Capitol Building; Declaring the Post-war Policy of the State With Respect to Its Returning Service Men and Women; Making An Appropriation of Money Out of the Unexpended Surplus Now in the General Fund of the State to Carry Out the Purposes of This Act; Providing That This Act Shall Be Effective Regardless of Any Contrary Provisions of the State Budget Act and Repealing All Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The United States of America is now engaged in the greatest war of all time in which effort it has been loyally supported by the State of Montana (in common with our sister states) and the State of Montana and its citizens have cheerfully, promptly and generously contributed to the nation's war effort by giving their sons and daughters and by furnishing money and materials to efficiently prosecute the war, whenever called upon by the United States, and the caring for, rehabilitation and employment of returning soldiers, sailors, marines and other service men and women as well as citizens of Montana who are engaged in various war industries to produce the things necessary for the prosecution of the war, is as essential as fighting the battles of the war.

The cessation of hostilities will intensify the need for providing employment for those who come home from the war, which employment should include, in part, a program of construction of needed public buildings and improvements, and is an essential part of the war effort.

Section 2. The State of Montana hereby recognizes and declares its post-war obligation for the care, rehabilitation and employment of its citizens of the classes enumerated in Section 1 of this act. In order that a beginning may be made in translating that obligation into performance, the state board of examiners is hereby authorized and directed to employ an architect or architects for such period of time as it may deem proper, not exceeding two years from the effective date of this act, for the purpose of preparing plans and specifications for the construction of a needed office building or addition to the present state capitol building at Helena. Said architect or architects shall receive as com-

Employment of architect authorized.

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Compensation.

pensation for said services, such amounts, not exceeding the sum appropriated by this act, as said board of examiners shall determine to be reasonable and proper.

Appropriation.

Section 3. There is hereby appropriated out of the unexpended surplus moneys at present in the general fund of the State of Montana, the sum of thirty thousand dollars ($30,000.00) or such part thereof as may be necessary to pay said architect or architects in compliance with the provisions of this act. It is, however, expressly declared, and this provision is mandatory, that said sum of thirty thousand dollars ($30,000.00) or such part thereof as is necessary shall be paid only out of the present surplus in the general fund of the State, and no part of said money which may be taken from the surplus in said general fund shall be replaced by any money derived from any tax levy which may hereafter be made by the Legislative Assembly.

Limitation as to source of money appropriated.

No part of the funds derived from any tax levy provided for by Section 12 of Article XII of the Constitution of Montana, which has been or may hereafter be levied by this Session of the Legislative Assembly shall be used to pay said appropriation or any part thereof.

Act effective despite budget act.

Section 4. This act shall be fully effective notwithstanding any conflict between its provisions and those of the state budget act, or any failure of this act to comply with the requirements of said budget act.

Repealing clause.

Section 5. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 6. This act shall take effect immediately upon its passage and approval.

Approved January 25, 1945.

CHAPTER 3

An Act Relating to and Specifying Inheritance Taxes Imposed Upon the Personal Property of Non-resident Decedents, and providing for a Reciprocal Exemption.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The tax imposed by Section 10400.1, Section 10400.2, Section 10400.3, Section 10400.11 and Section

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10400.15 of the Revised Codes of Montana, 1935 in respect of personal property, except tangible personal property having an actual situs in this State, shall not be payable: Certain property exempted from inheritance tax.

(1) If the decedent is a resident of a state or territory of the United States which at the time of the transfer did not impose a transfer tax or death tax of any character in respect of personal property of residents of this State, except tangible personal property having an actual situs in that state or territory; or Condition for exemption.

(2) If the laws of the state or territory of residence of the non-resident decedent at the time of the transfer contained a reciprocal provision under which non-residents of that state were exempted from transfer tax or death taxes of every character in respect of personal property, except tangible personal property having an actual situs in that state, providing the state or territory of residence of such non-resident decedent allowed a similar exemption to residents of this State. Alternative condition.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved January 30, 1945.

CHAPTER 4

An Act Validating, Ratifying, Approving and Confirming Bonds and Other Instruments or Obligations, Heretofore Issued by Public Bodies of This State, and All Proceedings Heretofore Taken for the Authorization and Issuance by Such Public Bodies of Bonds, Instruments and Other Obligations, However Described, and Providing That This Act May Be Cited As "The 1945 Bond Validating Act", and Providing Further That Nothing Contained in This Act Shall Be Construed or Interpreted to Validate, Ratify, Approve or Confirm Any Bonds, Debentures, Certificates, Instruments or Other Obligations Issued by the Montana Armory Board, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. This act may be cited as "The 1945 Bond Validating Act." Title of act.

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Definitions.

Section 2. The following terms, wherever used or referred to in this act, shall have the following meaning:

"Public body."

(a) The term "public body" shall include a county, city, town, school district, irrigation district, drainage district, special improvement district, or any other political or governmental subdivision of the State of Montana, and shall also include the state board of education, the state board of examiners, the state water conservation board, the state highway commission or any other governmental agency of this State.

"Bonds."

(b) The term "bonds" shall include bonds, notes, warrants, debentures, certificates of indebtedness, temporary bonds, temporary notes, interim receipts, interim certificates and all instruments or obligations evidencing or representing indebtedness, or evidencing or representing the borrowing of money, or evidencing or representing a charge, lien or encumbrance on specific revenues, income or property of a public body, including all instruments or obligations payable from a special fund.

Bonds and proceedings validated.

Section 3. All bonds heretofore issued or authorized by an election held prior to January 1, 1945, for any of the purposes for which bonds may be issued by any public body of this State and all proceedings heretofore taken for the authorization and issuance of bonds by such public body, and the sale, exchange, execution and delivery thereof are hereby validated, ratified, approved and confirmed, notwithstanding any lack of power (other than constitutional) of such public body, or the governing board or commission or officers thereof, to authorize and issue such bonds, or to sell, exchange, execute or deliver the same, and notwithstanding any defects or irregularities (other than constitutional) in such proceedings or in such sale, exchange, execution or delivery; and bonds of such public bodies, whether issued or hereafter issued under the authority of proceedings heretofore taken, are and shall be binding, legal, valid and enforceable obligations of such public body. Nothing contained in this act shall be construed or interpreted to validate, ratify, approve or confirm any bonds, debentures, certificates, instruments or other obligations issued by the Montana armory board.

Obligations issued by Montana armory board excepted.

Effective date.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved January 31, 1945.

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CHAPTER 5

An Act Authorizing and Empowering the State Board of Examiners to Refund Bonds and Highway or Other Debentures Which Have Been Heretofore Issued by the State of Montana and Are Now Outstanding, or Which May Be Hereafter Issued by the State of Montana, and Providing Method of Paying the Cost Thereof.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The State Board of Examiners is hereby authorized and empowered to refund any issue of bonds, highway or other debentures, heretofore issued by the State of Montana and which are outstanding, or which may hereafter be issued by the State of Montana, whenever in the judgment of such board it shall be deemed for the best interests of the state to do so; provided, that when the amount of any such issue of bonds or debentures is less than five hundred thousand ($500,000.00) dollars, the same shall not be refunded unless such refunding bonds shall bear interest at a rate of at least one-half of one per cent (½ of 1%) per annum less than the rate of interest on the bonds to be refunded, and when the amount of any such issue of bonds or debentures is more than five hundred thousand ($500,000.00) dollars, the same shall not be refunded unless such refunding bonds shall bear interest at a rate of at least one-quarter of one per cent (¼ of 1%) per annum less than the rate of interest on the bonds to be refunded; provided further, that refunding bonds or debentures shall not be issued in any greater amount than will be required to pay the principal of the bonds or debentures to be refunded, plus any defaulted interest thereon.

Refunding bonds or debentures of state authorized.

Proviso: as to interest rate on refunding bonds.

Further proviso: as to amount to be issued.

Section 2. All refunding bonds or debentures issued by the state board of examiners under the provisions of this act shall be either amortization bonds, as defined by the statutes of the state, or serial bonds. Each issue of refunding bonds or debentures shall bear upon their face such statement as may be necessary to show that they are refunding bonds or debentures and the bonds or debentures which are issued to refund. Each bond and debenture shall be signed by the members of the state board of examiners and shall have affixed thereto the Great Seal of the State of Montana. Each serial bond thereof shall have coupons attached thereto showing the semi-annual pay-

Character of bonds: amortization or serial.

Other requirements.

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ments due thereon, which coupons may be signed with the facsimile signature of each member of the state board of examiners. The state board of examiners shall prescribe all other details for the form of the bonds or debentures, notice and time of sale. They shall be registered in the office of the state treasurer in a book to be provided for that purpose.

Registration.

Section 3. The refunding bonds or debentures which may be issued under the provisions of this act shall be sold by the state board of examiners in such manner as they shall deem for the best interests of the state, provided that none thereof shall be sold at less than its par value; and provided further, that if the state shall hold any bonds or debentures to be refunded by any such issue of refunding bonds or debentures as investments of institutional or other funds, the same may be exchanged for the refunding bonds or debentures, if such exchange be authorized by the proper state officers or board, subject however to the provisions for reduced interest rates required by Section 1, of this act.

Sale of bonds and debentures.

Section 4. All of the provisions of the act authorizing the issuance of the bonds or debentures which are to be refunded, insofar as the same relate to the issuance and sale, term and rate of interest, tax levies or funds for the payment and interest thereof, and time and manner of such payments, except insofar as the same may be in conflict with the provisions of this act, shall apply fully to such refunding bonds or debentures.

Application of provisions of act authorizing issuance of the bonds to be refunded.

Section 5. The state board of examiners may require the purchaser to bear the cost and expense of refunding any issue of bonds or debentures in connection with the bid submitted, or the cost and expense may be paid out of the sinking and interest fund when there is money in such fund, and the balance remaining in such sinking and interest fund shall be transferred to and shall become the sinking and interest fund for such refunding bonds or debentures, and any and all moneys thereafter received by the state treasurer for such sinking and interest fund shall be placed in the sinking and interest fund of such refunding bonds or debentures.

Cost and expense of refunding.

Section 6. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

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Section 7. This act shall be in full force and effect from and after its passage and approval. Effective date.

Approved February 2, 1945.

CHAPTER 6

An Act to Amend Section 4550, Revised Codes of Montana, 1935, Relating to Moneys Appropriated for Exhibits at Fairs or Agricultural Shows; Providing for the Disbursement Thereof; Authorizing the Acquisition of Lands and Improving the Same, and Authorizing the Use of Said Moneys for Said Exhibits.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 4550 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

"Section 4550. The funds derived from such appropriation or tax levy shall be kept in a separate fund by the county treasurer, and shall hereafter be paid out by the said treasurer on order signed by the president and secretary of the said fair commission. Separate fund—how disbursed.

The board of county commissioners of any county in the State of Montana may purchase, receive by donation, or own and hold a tract of land in their respective counties, not exceeding one hundred sixty (160) acres, as county fair grounds, which land may be used by the county fair commission for the purpose of promoting the interests of horticulture, agriculture, and stock raising. The board of county commissioners who shall avail themselves of the foregoing provisions may purchase, erect, construct and maintain permanent improvements on such fair grounds. County commissioners may acquire and improve land for county fair.

The board of county commissioners of any county in Montana may appropriate each year the sum of *one thousand dollars ($1,000.00)*, or so much thereof as may be necessary, out of the general funds of the county, for the purpose of defraying the expenses of collecting, transporting, and taking care of any exhibit from such county at any *state fair*, county agricultural fair, *4-H club or future farmers fair*, seed show or other agricultural exhibit held within the state *or county*. Appropriation for expense relating to certain exhibits authorized.

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Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 2, 1945.

CHAPTER 7

An Act to Amend Section 4868 of the Revised Codes of Montana of 1935, Relating to the Payment of Salaries of County Attorneys and Assistants; Particularly Providing for a Certificate from the County Commissioners of Each County to the State Auditor, Certifying As to the Election or Appointment of a County Attorney, and Providing a Method of Drawing Warrants by the State Auditor in Compliance With This Act, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

R. C. 1935, Sec. 4868 amended.

Section 1. That Section 4868 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Salaries, how paid.

"Section 4868. The salaries of the several county officers and their assistants must be paid monthly out of the general fund of the county, upon the order of the board of county commissioners, except the salary of the county attorney, which is payable monthly, one-half from the general fund of the county and the other one-half from the state treasury upon the warrant of the state auditor. *The county commissioners of each county shall, within thirty (30) days after the election or appointment to fill a vacancy for any cause, of any county attorney, certify such election or appointment to the state auditor who shall thereafter draw warrants for such salaries in the same manner as for state officers. Provided, in case of a vacancy, the county commissioners shall immediatelly notify the state auditor, and the auditor shall compute the salaries due on the basis of said notification.*"

State auditor to be advised of encumbancy of office of county attorney and to draw salary warrants.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 2, 1945.

CHAPTER 8

An Act to Repeal Section 9484 Revised Codes of Montana,

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1935, Relating to the Contents of the Affidavit for Publication of Summons in Actions to Quiet Title.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 9484 Revised Codes of Montana, 1935, be, and the same is hereby repealed. Sec. 9484, R. C. 1935, repealed.

Section 2. This act shall be in full force and effect from and after its passage and approval. Effective date.

Approved February 5, 1945.

CHAPTER 9

An Act to Amend Section 4933 of the Revised Codes of Montana of 1935, Relating to Grand and Trial Jurors' Fees, Increasing Same and Reducing Mileage Rate.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 4933 of the Revised Codes of Montana of 1935 be, and the same is hereby, amended to read as follows, to-wit: Sec. 4933, R. C. 1935, amended.

"Section 4933. **Jurors' Fees.** Grand and trial jurors shall receive *SIX DOLLARS* per day for attendance before any court of record and *FIVE CENTS* per mile each way for traveling from and to their residence and county seat. Any juror who is excused from attendance upon his own motion on the first day of his appearance in obedience to notice, or who has been summoned as a special juror and not sworn in the trial of the case, in the discretion of the court, may receive per diem and mileage." Jurors' fees.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved February 5, 1945.

CHAPTER 10

An Act to Amend Sections 951 and 952 of the Revised Codes of Montana of 1935, Relating to the Election of a County Superintendent of Schools and the Term of Office of the County Superintendent of Schools.

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Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 951, R. C. 1935, amended.

Section 1. That Section 951 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Election of superintendent.

"Section 951. **Election of Superintendent.** A county superintendent of schools shall be elected in each organized county in this State at the general election preceding the expiration of the term of office of the present incumbent, and every *four* years thereafter."

Sec. 952, R. C. 1935, amended.

Section 2. That Section 952 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Term of office.

"Section 952. **Term of Office.** The county superintendent shall take office on the first Monday in January next succeeding his election and hold for *four* years, and until his successor is elected and qualified."

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 5, 1945.

CHAPTER 11

An Act to Amend Section 12504 Revised Codes of Montana 1935 as Amended by Section 4 of Chapter 156 of the 28th Session of Montana Legislature, Relating to the Expense Attending the Care, Education, Training and Safe-keeping of Such Boy While He Shall Be in Actual Attendance or Residence of the School.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 12504, R. C. 1935, amended.

Section 1. That section 12504 Revised Codes of Montana 1935 as amended by Section 4 of Chapter 156 of the Session Laws of 1943 be amended to read as follows:

Order of commitment, contents of.

"Section 12504. **Expenses.** It shall be stated in the order of commitment the place where the boy resided at the time he was taken into custody, his age, as near as can be ascertained, and that such boy has not been convicted of any crime and is not deprived of any of his civil rights or privileges by reason of the making of such order of commitment; and shall command such officer, or an employee of the industrial school designated for such purpose as pro-

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vided in Chapter 97, Session Laws 1941, to take such boy and deliver him without delay to the president of said school, or other person in charge thereof, at the place where the same is located, and the showing of such certificate of the purposes of this act shall be conclusive evidence of his residence or age; accompanying this warrant the judge shall transmit by the officer or employee of the school executing it, a statement of the nature of the complaint to the president, together with such other particulars concerning the boy as the judge is able to ascertain; provided that the expense of committing the boy to said school and the returning of him to his parent or guardian after his release therefrom, shall be at the expense of the county of which such boy is committed; and provided that the county from which any boy committed to such school shall be sent be liable for the expense attending the care, education, training, and safekeeping of such boy while he will be in actual attendance or residence in said institution. On the first of every month the president of such school shall prepare and transmit to the respective boards of county commissioners of the several counties liable for such care, education and safekeeping, an itemized account showing the name of each boy, the number of days in the immediately preceding month for which such payment is to be made and the amount thereof, and said board of county commissioners, after checking the same for its correctness, shall allow it and pay the same by warrant drawn against its general or poor fund, payable to said industrial school and all such warrants when received shall be by the president of school transmitted to the state treasurer and the proceeds thereof shall be deposited to the credit of the state general fund; and provided further, that the provisions of this section requiring payment to be made by counties for care, education, training, and safekeeping shall apply to all boys committed to and in such school on the date this act takes effect."

Delivery of boy to school.

Expense.

President of school to submit monthly statements.

Section 2. That all acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved February 8, 1945.

CHAPTER 12

An Act to Amend Section 7329 of the Revised Codes of Montana of 1935 Relating to the Collection of Drainage

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District Taxes and Assessments and Repealing All Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 7329, R. C. 1935, amended.

Section 1. That Section 7329 of the Revised Codes of Montana of 1935 be and the same is hereby amended to read as follows:

"Section 7329. **District Taxes—How Certified and Collected.** On or before the *third Monday in August* of each year the commissioners shall certify to *the* County *Assessor* of each county wherein the lands of the district are situate, a correct list of all the district lands in such county and the owners thereof, together with a statement of the amount of the total tax or assessment against said lands for district purposes for that year. *The county assessor of each county shall immediately thereupon cause said assessment roll to be entered in the assessment book of said county for each year and prior to the delivery of the assessment book to the county treasurer.* The county treasurer of each county shall collect such taxes or assessments at the same time and in the same manner as county and state taxes."

District taxes, how certified and collected.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall take effect upon its passage and approval.

Approved February 8, 1945.

CHAPTER 13

An Act to Amend Section 5251 of the Revised Codes of Montana of 1935 Relating to the Certification and Collection of Special Assessments and Taxes of Cities and Towns and Repealing All Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 5251, R. C. 1935, amended.

Section 1. That Section 5251 of the Revised Codes of Montana of 1935 be and the same is hereby amended to read as follows:

"Section 5251. **Collection of City Taxes and Assessments by County Treasurer—Certification.** It shall be

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the duty of city or town treasurer of every city or town whose taxes for general, municipal and administrative purposes are certified to and collected by the county treasurer in accordance with the provisions of Section 5216 *Revised Codes of Montana 1935*, immediately after the second Monday of August of each year and at the same time the copy of the resolution determining the annual levy for general taxes is certified by the city or town clerk to the county clerk as required by said Section 5216, to certify to the county *assessor* of the county in which such city or town is situated, all special assessments and taxes levied and assessed in accordance with any of the provisions of this act. *The county assessor shall thereupon enter same upon the assessment roll of the county.* The county treasurer must collect *all such taxes and assessments* in the same manner and at the same time as said taxes for general, municipal and administrative purposes are collected by him."

Collection of city taxes and assessments by county treasurer.

Certification.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 3. This act shall take effect upon its passage and approval.

Effective date.

Approved February 8, 1945.

CHAPTER 14

An Act to Amend Section 7240 of the Revised Codes of Montana of 1935 Relating to the Collection of Irrigation District Taxes and Assessments and Repealing All Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 7240 of the Revised Codes of Montana of 1935 be and the same is hereby amended to read as follows:

Sec. 7240, R. C. 1935, amended.

"Section 7240. **Collection of Taxes or Assessment.** On or before the *third Monday in August* of each year the board of commissioners shall furnish the county *assessor* in each county in which any of the lands of the district are situate, a correct list of all the district lands in such county, together with the amount of the total taxes or assessments against said lands for district purposes. The county *as-*

Collection of taxes or assessments.

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sessor of each county shall immediately thereafter cause said assessment roll to be entered in the assessment book of said county for each year, and prior to the delivery of the assessment book to the county treasurer. The county treasurer of each county shall collect such taxes or assessments in the same manner and at the same time as county and state taxes."

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall take effect upon its passage and approval.

Approved February 8, 1945.

CHAPTER 15

An Act to Amend Section 4, of Chapter 87, of the Laws of 1937, As Amended by Chapter 215 of the 26th Legislative Assembly, Relating to "Membership" and Providing That Service in the Armed Forces, American Red Cross and Merchant Marine, During the Time of War, Shall Not Cause Cancellation of Membership in the Teachers' Retirement System; and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Amendment of Sec. 4, Ch. 87, laws of 1937, as amended.

Section 1. That Section 4, of Chapter 87, of the Laws of 1937 as amended by Chapter 215 of the 26th Legislative Assembly be and the same is hereby amended to read as follows:

"Section 4. **Membership.**

Membership.

(1) The membership of the retirement system shall consist of the following:

(a) All persons who were teachers in the public elementary and high schools of the state during the school year nineteen hundred and thirty-six to nineteen hundred and thirty-seven, and who continue to be teachers shall become members as of the date of establishment except that any such teacher may notify the board on or before the thirtieth day of November, nineteen hundred and thirty-seven, in such form as the board may prescribe, that he does not de-

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sire to become a member, and in such case the board shall exclude him from the membership.

(b) All persons who were teachers in the university of Montana during the school year nineteen hundred and thirty-eight to nineteen hundred and thirty-nine, and who continue to be teachers shall become members as of the first day of September, nineteen hundred and thirty-nine, except that any such teacher may notify the board on or before the thirtieth day of November, nineteen hundred and thirty-nine, in such form as the board may prescribe, that he does not desire to become a member, and in such case the board shall exclude him from the membership. Membership.

(c) All persons who become teachers or re-enter the teaching service in the public elementary or high schools on or after the first day of September, nineteen hundred and thirty-seven, and all persons who become teachers or re-enter the teaching service in the university of Montana on or after the first day of September, nineteen hundred and thirty-nine, shall become members of the retirement system by virtue of their appointment as teachers.

(d) A teacher in the public elementary or high schools who shall elect not to become a member as provided in subdivision (a) of this subsection, may thereafter apply for and be admitted to membership, but no such teacher shall receive prior service credit unless he becomes a member before the first day of September, nineteen hundred and thirty-eight.

(e) A teacher in the university of Montana who shall elect not to become a member as provided in subdivision (b) of this subsection may thereafter apply for and be admitted to membership, but no such teacher shall receive prior service credit unless he becomes a member before the first day of September, nineteen hundred and forty.

(2) The Retirement Board may in its discretion deny the right to become members to any class of teachers whose compensation is only partly paid by the employer, or who are serving on a temporary or any other than a per annum basis, and it may also in its discretion make optional with members in any such class their individual entrance into membership. Membership may be denied certain class of teachers.

(3) The membership of any person in the retirement system shall cease if he shall be continuously absent with-

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Cessation of membership, causes for.

out pay for a period of more than three years or if in any period of ten consecutive years after he last became a member he shall render less than five years of service as a teacher or if he withdraws his accumulated contributions or retires on a pension or dies, but not otherwise, except that the membership of a teacher who has not withdrawn his contributions and who has not had sufficient service to be eligible for disability retirement shall not be cancelled, provided the member shall prove to the satisfaction of the retirement board that absence from service was caused by personal illness constituting disability, *or service in the armed forces of the United States which includes all members of the army, the navy, the marine corps, and the coast guard, or service in the American red cross and merchant marine during time of war.*

Proviso.

Duty of school trustees and chief executive of each institution or division of university of Montana employing teachers.

(4) It shall be the duty of each board of school trustees and of the chief executive of each institution, station or division of the university of Montana employing teachers subject to the provisions of this act to submit to the retirement board a statement showing the name, title, compensation, duties, date of birth, and length of service of each teacher employed in such schools and such other information regarding such teachers as the retirement board may require."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall take effect and be in full force and effect from and after its passage and approval.

Approved February 8, 1945.

CHAPTER 16

An Act Amending Chapter 221, Session Laws of the State of Montana for 1943, Providing for Public Cemetery Districts; Providing for Petitions and Notices of Hearing Respecting Said Districts; Providing for an Election Creating Cemetery Districts; Providing for an Order Organizing Cemetery Districts, Naming Trustees and Granting Powers Thereto; Providing for an Annual Tax Levy for Cemetery Districts; Providing for a Method of Withdrawal from Cemetery Districts, and Altering the Boundaries Thereof; and *Repealing* All Acts and Parts of Acts in Conflict Herewith.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Chapter 221, Session Laws of the State of Montana for 1943, be, and the same is hereby amended to read as follows: Ch. 21, laws of 1943, amended.

"Section 1. There is hereby deemed and declared a public Cemetery District Act for the State of Montana. A cemetery district may contain the entire territory embraced within a county or any portion or subdivision thereof. Title of act. Area of cemetery district.

"Section 2. Whenever a petition, signed by not less than *twenty (20%) per cent* of the citizens who are owners of land located within a proposed cemetery district, whose names appear as such owners of land upon the last completed assessment roll of the county in which said proposed district is situated, which petition shall definitely describe the boundaries of the proposed district and request that the territory within said boundaries be organized into a public cemetery district, the petition shall be presented to the board of county commissioners of the county in which the proposed district is situated, at a regular or special meeting of said board. The said board of county commissioners, by resolution, shall fix a time for the hearing of said petition at not less than two (2) nor more than five (5) weeks from the time of presentation thereof, and shall cause notice to be given of the time and place of said hearing by publication as prescribed by law, for not less than two (2) weeks prior to the time of said hearing. Said notice shall state that any person residing in or owning property within said proposed district or within any existing cemetery district, any part of the territory of which is described in said petition, may appear before said board at the hearing and show cause why the said district should not be created or the proposed boundaries changed. Petition to board of county commissioners. Notice of hearing.

"Section 3. At the time fixed for said hearing, the board shall determine whether or not it complies with the requirements hereinbefore set forth and whether or not the notice required herein has been published as required, and must hear all competent and relevent testimony offered in support of or in opposition thereto. Said hearing may be adjourned from time to time for the determination of said facts, not to exceed two (2) weeks in all. Hearing.

"Section 4. If the board of county commissioners

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shall determine that the petitioners have complied with the requirements herein set forth and that the notice required has been published, it shall thereupon proceed to a final hearing of the matter. Said board shall make such changes in the boundaries of the proposed district as it may deem advisable and shall define and establish such boundaries, as described in the petition and shall call an election.

Final Hearing.

"Section 5. The board, must in its order, designate whether or not a special election shall be held, or whether the matter shall be determined at the next general election. If a special election is ordered, the board must, in its order, specify the time and place for such election, the voting place, and shall in said order appoint and designate judges and clerks therefor. The election shall be held in all respects as nearly as practicable in conformity with the general election laws: and provided, further, that the polls shall be open from eight (8) o'clock A. M. to six (6) P. M., on the day appointed for such election. At such election, the ballots must contain the words 'Cemetery District, Yes' and 'Cemetery District, No'. The judges of the election shall certify to the board of county commissioners the results of said election.

Order of board as respects election.

Special election regulations relating to.

Ballots.

"Section 6. In the event that a majority of the votes cast are in favor of the formation of said cemetery district, the board of county commissioners shall proceed with the organization thereof as herein specified.

"Section 7. Said cemetery district shall be governed and managed by three (3) trustees, appointed by the board of county commissioners. The trustees shall be appointed from the freeholders residing within said district for terms of one (1), two (2) and three (3) years respectively, and until their successors shall be appointed and qualified. Annually thereafter the board of county commissioners shall appoint one trustee for a term of three (3) years or until his successor shall be appointed and qualified. The trustees at their first meeting shall adopt by-laws for the government and management of the district. They shall serve without pay.

Government of district—appointment and terms of trustees.

"Section 8. Said district may maintain a cemetery or cemeteries within said district; may hold title to property by grant, gift, devise, lease, or any other method; and perform all acts necessary or proper for the carrying out of

Powers of district.

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the purposes of this act, including the selling or leasing of burial lots.

"Section 9. The board of cemetery trustees shall annually present a budget to the board of county commissioners at the regular budget meetings as prescribed by law. The board of county commissioners must annually, at the time of levying county taxes, fix and levy upon all property within said cemetery district, sufficient to raise the amount certified by the board of cemetery trustees to be raised by a tax on the property of said district. The tax so levied shall not exceed one (1) mill on each dollar of taxable valuation on the property of said district.

Budget and tax levy.

"Section 10. The trustees shall make proper rules and regulations for the management of the cemeteries. The procedure of the collecting of the tax and the distribution of the funds shall be in accordance with the existing laws of the State of Montana.

Regulations.

"Section 11. Any portion of a public Cemetery District may be withdrawn therefrom as in this section provided, upon receipt of a petition signed by fifty (50) or more freeholders residing in, or owning property within the portion desired to be withdrawn by any public cemetery district or by a majority of such freeholders, if there are less than one hundred (100) residing within the portion sought to be withdrawn, on the grounds that such portion will not be benefited by remaining in said district. The board of county commissioners shall fix a time for the hearing of such withdrawal petition which shall not be more than sixty (60) days after the receipt thereof. The said board shall, at least thirty (30) days prior to the time so fixed, publish a notice of such hearing for two (2) issues as provided by law.

Withdrawal of portion of district, petition for.

"Section 12. Any person interested may appear at said hearing and present objections to the withdrawal of said portion from said district. The board shall consider all objections, pass upon the merits thereof and make an order in accordance therewith. This order is subject to review by any court of competent jurisdiction.

Hearing.

Review by court.

"Section 13. The boundaries of any such public cemetery district may be altered and outlying districts be annexed thereto in the following manner: A petition signed by fifty (50) or more freeholders within the territory pro-

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posed to be annexed, or by a majority of such freeholders if there are less than one hundred (100) residing within the portion proposed to be annexed, designating the boundaries of such contiguous territory proposed to be annexed and asking that it be annexed to said public cemetery district, shall be presented to the board of county commissioners of the county in which said public cemetery district is situated.

Alteration of boundaries.

"Section 14. At the first regular meeting after the presentation of said petition, said board of county commissioners shall cause notice of said petition to be published according to law for two (2) weeks prior to the date to be fixed by said board for the hearing of said petition. Upon the date fixed for such hearing or continuance thereof said board shall take up and consider said petition and any objections which may be filed to the inclusion of any property in said district.

Notice, publication of.

"Section 15. Said board of county commissioners shall have the power by order entered on its minutes to grant said petition either in whole or in part, and by order entered on its minutes to alter the boundaries of said public cemetery district and to annex thereto, all, or such portion of said territory described in said petition as will be benefited thereby. This territory shall become and be a part of such public cemetery district and shall be taxed, together with the remainder of said district, for all taxes to be thereafter levied by said board of county commissioners for the operation and maintenance of said public cemetery district.

Power of county commissioners.

"Section 16. If any section, clause, paragraph or provision of this act shall be found invalid by court or competent jurisdiction, it shall be conclusively presumed that this act would have been passed by the legislature without such invalid section, paragraph or clause and the act as a whole shall not be declared invalid by reason of the fact that one or more sections, clauses, sentences, paragraphs or parts may have been found invalid by any court.

Severability of act.

"Section 17. All acts and parts of acts in conflict herewith are hereby *repealed.*"

Repealing clause.

Approved February 10, 1945.

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CHAPTER 17

An Act Providing for the Acquisition, Upkeep, Care, Maintenance, Operation and Support by Counties of Nonprofit Museums and Archaeological, Geological and Historical Museums and Collections of Exhibits; Authorizing Boards of County Commissioners to Levy Taxes for Such Purposes; Providing for the Appointment of Board of Trustees for Such Museums and Exhibits; and Repealing Chapter 48, Session Laws 1943, and All Other Acts in Conflict With This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

County commissioners authorized to acquire museums and exhibits.

Section 1. The board of county commissioners of the several counties of the state, in addition to all other powers now conferred upon them, shall have authority to accept or acquire by gift or donation from individuals, associations and corporations, archaeological, geological and historical museums, and collections of exhibits, and articles, matters and things to be included in or added to such museums and collections.

Tax levy.

Section 2. The board of county commissioners of any county now owning, or hereafter acquiring any such museum or collection of exhibits, may make an appropriation in its annual budget for the upkeep, care, maintenance, operation and support thereof, and to meet and take care of such appropriation may annually levy a tax of not to exceed one-half (½) mill on each dollar of the taxable valuation of the property subject to taxation in the county, which levy shall be made at the same time as other levies are made for county and school purposes. The proceeds from the collection of such levy shall be kept in a special fund by the county treasurer and used solely for the purpose for which such levy was made.

Special fund.

Board of trustees.

Section 3. The board of county commissioners of each county owning, or hereafter acquiring any such museum or collection of exhibits may, at the regular meeting of such board in July, 1945, if the county is then the owner of any such museum or collection, or at the first regular meeting of the board after acquiring any such museum or collection, appoint a board of trustees for such museum or collection, such board to consist of three (3) responsible persons, electors and residents of the county, the term of one of said members to expire on June 30th of the next following year,

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the term of another of said members to expire on June 30th of the second following year and the term of the third member to expire on June 30th of the third following year; and thereafter the board shall, at its regular meeting in July of each year appoint a member of such board of trustees to take the place of the member whose term expired on June 30th immediately preceding. It shall be the duty of such board to have the immediate custody, charge and control of such museum or collection, to make such rules and regulations as may be necessary and reasonable for the preservation, upkeep, care, maintenance, operation and support and display thereof, and to make to the board of county commissioners, not later than the 15th day of July of each year, a report in writing, detailing all gifts and donations made to such museum or collection and the receipts and expenditures during the immediately preceding fiscal year, and an estimate of the amount to be budgeted for such museum or collection in the budget of the county for the then current fiscal year.

Powers and duties of.

Section 4. Chapter 48, Session Laws 1943, and all other acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 5. This act shall be in full force and effect on and after its passage and approval.

Effective date.

Approved February 10, 1945.

CHAPTER 18

An Act to Amend Section 5374 of the Revised Codes of Montana, 1935, Relating to the Number of Councilmen; Providing for Filling Vacancies and Fixing the Tenure of Office of Persons Filling Such Vacancies of Mayor and Councilmen in Cities Operating Under the Commission Form of Government.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 5374 of the Revised Codes of the State of Montana, 1935, be, and the same is hereby amended to read as follows:

Sec. 5374, R. C. 1935, amended.

Section 5374. In every city of the third class, there shall be a mayor and two councilmen; in every city of the second

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class, a mayor and two councilmen; in every city of the first class having a population of less than twenty-five thousand (25,000), a mayor and two (2) councilmen, and in every city of the first class having a population of twenty-five thousand (25,000), or more, a mayor and four (4) councilmen, and the mayor and all councilmen shall be elected at large. Mayor and councilmen.

Vacancies in the office of mayor or councilmen shall be filled by appointment made by a majority vote of the remaining members of the council, and if, in filling such vacancy, a tie vote should occur, then the person to fill said vacancy shall be determined by lot in such manner as said council may provide. *A person appointed to fill any such vacancy shall hold his office until the next general election and until his successor is elected and qualified. A person elected to fill a vacancy shall hold office until the expiration of the term for which the person he succeeds was elected.* Vacancies, how filled. Term of appointee.

Section 2. All acts and parts of acts in conflict with this act are hereby repealed. Repealing clause.

Section 3. This act is hereby deemed and declared an emergency act and shall be in full force and effect from and after its passage and approval. Effective date.

Approved February 10, 1945.

CHAPTER 19

An Act to Amend Section 5033.1 Revised Codes of Montana 1935, Relating to Financial Statements of Cities and Towns.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 5033.1 Revised Codes of Montana 1935 be and the same is hereby amended to read as follows: Sec. 5033.1, R. C. 1935, amended.

"5033.1. **Financial Statement of City or Town—Contents—Copies, to Whom Furnished.** Within sixty (60) days after the close of each fiscal year the city or town clerk of each city and town in this state must make out, in *duplicate,* a full and complete statement of the financial condition of the city or town for such fiscal year, showing: Financial statement of city or town.

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What financial statement shall contain.

1. The indebtedness of the city or town, funded and floating; the amount of each class of indebtedness; and the amount of money in the treasury subject to the payment of each class of indebtedness;

2. The amount of money received from taxes upon real and personal property;

3. The amount of money received from fines, penalties and forfeitures;

4. The amount of money received from licenses;

5. The amount of money received from all other sources, each source and the amount received therefrom being shown separately;

6. For each fund the amount of money, if any, on hand at the beginning of such fiscal year, the amount received by and the amount paid out during such fiscal year. The total amount of money paid out must be deducted from the sum of money on hand at the beginning of the fiscal year and money received during such year by the city or town treasurer, and a balance must be struck for each fund;

7. A concise description of all property owned by the city or town with an approximate estimate of the value thereof;

8. The rates of taxation and purposes for which levied during such fiscal year;

9. Such other information as may be, from time to time, required by the state examiner.

The forms on which such statement shall be made shall be prescribed by the state examiner.

Copies, to whom furnished.

The city or town clerk must, not later than the 31st day of August following the close of each fiscal year, transmit one copy of such statement to the state examiner, and must present the *other* copy thereof to the city or town council, or commission, at the first regular meeting thereof in the month of September.

Examination by state examiner, when.

If any city or town clerk shall fail to make and file a copy of such statement with the state examiner within the time above specified, it shall be the duty of the state examiner, without delay, to examine the books, records and accounts of such city or town and to make therefrom such statement

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of the financial condition of such city or town for the immediately preceding fiscal year in the same manner and form as the same should have been made by such city or town clerk. Such examination shall be deemed a special examination under the provisions of Section 6014.84, and all of the provisions of such section shall apply thereto."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect on and after its passage and approval.

Approved February 12, 1945.

CHAPTER 20

An Act Authorizing and Directing the State Board of Health of Montana to Secure and Process Blood; to Store and Distribute Blood Plasma Free of Charge to the People of the State of Montana; Providing an Appropriation of Twenty Thousand ($20,000.00) Dollars Therefor; and Declaring an Emergency.

Be it enacted by the Legislative Assembly of the State of Montana:

Blood plasma, power and duty of state board of health with relation to.

Section 1. The state board of health of Montana is hereby authorized and directed to obtain blood from donors in the State of Montana, to purchase equipment necessary for processing such blood, to process the same, and to furnish blood plasma so processed free of charge to the people of the State of Montana, and to provide reserves of blood plasma in various parts of the state.

Rules covering distribution of.

Section 2. The state board of health of Montana is in authority to establish from time to time rules and regulations covering the distribution and use of such plasma.

Appropriation.

Section 3. **Appropriation.** There is hereby appropriated out of any money in the state treasury not otherwise appropriated, the sum of twenty thousand ($20,000.00) dollars to be used for the purpose of purchasing equipment and paying expenses necessary to carry out the purposes of this act.

Section 4. This act is hereby declared to be an emer-

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Effective date.

gency measure and shall be in full force and effect from and after its passage and approval.

Approved February 12, 1945.

CHAPTER 21

An Act to Amend Section 2 of Chapter 50 of the Session Laws of Montana 1939 Authorizing the Montana Trade Commission to Include the Entire State of Montana in One Trade Area.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 2, Ch. 50, laws of 1939, amended.

Section 1. That Section 2 of Chapter 50 of the Session Laws of Montana 1939 be and the same is hereby amended to read as follows:

"Section 2. That Chapter 80 of the Session Laws of Montana of 1937 be and the same is hereby amended by incorporating therein following Section 12 of said chapter a new section to be known as Section 12A, to read as follows:

Cost survey to be established, when.

Section 12A. The Montana trade commission is hereby empowered and directed whenever application therefor shall have been made by ten or more persons, firms or corporations within any particular retail trade or business to establish the cost survey provided for in Section 5 of this chapter. When petition for such cost survey has been so presented to the commission, the commission shall, as soon as possible, fix a time for a public hearing upon the question of whether such cost survey should be established. Such hearing shall be held at the office of said commission and upon such notice as the commission may by rule require; provided, however, that notice of such hearing shall be published for at least two successive weeks in such daily newspaper or newspapers as the commission may designate as most commonly circulated in the counties to be affected by such cost survey. Said notice shall further state the locality or area in respect to which said cost survey is proposed to be established and the particular retail trade or business to be affected thereby.

Hearing.

Notice of.

At the time fixed in said notice any person, firm or corporation shall be entitled to appear and be heard by the commission upon all questions to be determined by it as

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provided in this section. If the commission shall determine that a cost survey shall be established, it shall at the same hearing proceed to classify and define the particular retail trade or business, or parts thereof, to be affected thereby, determine and delimit the particular area within which such retail trade or business shall be so affected, and find and determine the probable 'cost of doing business' or 'overhead expense', stated in percentage or percentages of invoice or replacement cost which would probably be incurred by the most efficient person, firm or corporation within such retail trade or business within such area.

Duty of commission, in case cost survey is to be established.

Provided, however, that where the commission shall determine that the probable 'cost of doing business' or 'overhead expense', stated in percentage or percentages of invoice or replacement cost which would probably be incurred by the most efficient person, firm or corporation in such retail trade or business is the same for the entire state, then and in that event the commission may, upon proper notice having been given as hereinbefore provided, create one trade area which shall embrace the entire state.

Statewide trade area may be created, when.

The percentage or percentages so fixed and determined shall be presumed to be the actual 'cost of doing business' and 'overhead expense' of any person, firm or corporation in such retail trade or business and within the area, affected by such cost survey."

Percentages fixed shall be presumed to be cost of doing business and overhead expense.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved February 12, 1945.

CHAPTER 22

An Act to Amend Section 2503 of the Revised Codes of Montana 1935, Relating to the Child Welfare Division of the State Board of Health and Naming Such Division as the Division of Maternal and Child Health.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 2503 of the Revised Codes of Montana 1935 be and the same is hereby amended to read as follows:

Sec. 2503, R. C. 1935, amended.

"2503. **Child Welfare Division Created.** That a child

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Child welfare division created.

welfare division be and the same is hereby created, which shall be under the direct supervision of the state board of health. *The child welfare division of the state board of health shall be known as the 'Division of Maternal and Child Health' and wherever the title or words child welfare division appears in this act, its formal name shall be 'Division of Maternal and Child Health'.*"

To be known as division of maternal and child health.

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Approved February 12, 1945.

CHAPTER 23

An Act to Amend Sections 782, as Amended by Chapter 65 Laws of 1943, and 784 and 786 Revised Codes of Montana, Relating to the Custody, Returning, and Filing of Election Returns, to Provide for the Filing of Ballots and Stubs Together.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 782, R. C. 1935, as amended, hereby further amended.

Section 1. That Section 782 of the Revised Codes of Montana 1935, as amended by Chapter 65 of the laws of 1943 be and the same is hereby amended to read as follows:

Duty of judges to seal and return voted ballots and other papers and documents.

"Section 782. The judges must, before they adjourn, inclose in a strong envelope, securely sealed and directed to the county clerk, the check-lists, all certificates of registration received by them, the lists of the persons challenged, both of the poll-books, both of the tally-sheets, and the official oaths taken by the judges and clerks of election; and must inclose in a separate package or envelope, securely sealed and directed to the county clerk, all unused ballots with the numbered stubs attached; and must also inclose in a separate package or envelope, securely sealed and directed to the county clerk, all ballots voted, including all voted ballots which, for any reason, were not counted or allowed, *and all detached stubs from ballots voted,* and endorse on the outside thereof 'ballots voted'. Each of the judges must write his name across the seal of each of said envelopes or packages. The ballot box must be returned to the county clerk."

Section 2. That Section 784 of the Revised Codes of

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Montana 1935 be and the same is hereby amended to read as follows:

Sec. 784, R. C. 1935, amended.

"Section 784. The sealed envelope containing the check-lists, certificates of registration, poll-book, tally-sheets, oaths of election officers, also the package or envelope containing the *voted ballots and* detached stubs and *the package or envelope containing the* unused ballots, must, before the judges adjourn, be delivered to one of their number, to be determined by lot, unless otherwise agreed upon."

Delivery of sealed envelope containing, etc., to one of the judges.

Section 3. That Section 786 of the Revised Codes of Montana 1935 be and the same is hereby amended to read as follows:

Sec. 786, R. C. 1935, amended.

"Section 786. Upon the receipt of the packages *or envelopes* by the County Clerk, he must file the *package or envelope* containing the ballots voted *and detached stubs and the package or envelope containing* the unusued ballots, and must keep them unopened and unaltered for twelve (12) months, after which time, if there is no contest commenced in some tribunal having jurisdiction about such election, he must burn such packages, or envelopes, without opening or examining their contents."

Filing and disposition of packages or envelopes containing election returns.

Section 4. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved February 12, 1945.

CHAPTER 24

An Act to Amend Section 4796 of the Revised Codes of Montana of 1935, Relating to Instruments to be Recorded.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 4796 of the Revised Codes of Montana 1935 be and the same is hereby amended to read as follows:

Sec. 4796, R. C. 1935, amended.

"Section 4796. **What to Be Recorded.** He must, upon payment of his fees for the same, record, *or photograph,* or correctly copy, separately, in large and well-bound, or to be bound, separate books, either in a fair hand or by printing or by typewriting, *or by photographic process,* or by the use of prepared blank forms:

What to be recorded or photographed

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What to be recorded or photographed.

1. Deeds, grants, transfers, contracts to sell or convey real estate and mortgages of real estate, releases of mortgages, powers of attorney to convey real estate, and leases which have been acknowledged or proved;

2. Certificates of births and deaths;

3. Wills devising real estate admitted to probate;

4. Official bonds;

5. Transcripts of judgments which by law are made liens upon real estate;

6. Instruments describing or relating to the separate property of married women, and sole trader judgments;

7. All orders and decrees made by the district court in probate matters affecting real estate which are required to be recorded;

8. Notice of pre-emption claims;

9. Notice and declaration of water rights;

10. Assignments for the benefit of creditors;

11. Affidavits of annual work done on mining claims;

12. Notices of mining locations and declaratory statement;

13. Estrays and lost property;

14. A book containing appraisment of state lands;

15. Such other writings as are required or permitted by law to be recorded; provided, nothing herein shall be construed as preventing the recording *or photographing* or copying of such instruments, separately, upon a single or loose page or pages of a book, if such page or pages shall immediately become a part of such book or volume, which, when completed, shall be firmly bound and the pages thereof securely locked or sealed into the volume.

Proviso, as to recording upon loose page of book.

Recording may be any process hereinabove prescribed.

Whenever the laws of the State of Montana require or permit any instrument to be recorded, such recording may be made in the manner or by any of the processes herein before prescribed."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

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Section 3. This act shall be in full force and effect from and after its passage and approval. Effective date.

Approved February 12, 1945.

CHAPTER 25

An Act to Amend Section 4536, Revised Codes of Montana, 1935, as Amended by Chapter 163, Laws of 1937 and Chapter 52 Laws of 1939 Relating to Burial of Deceased Members of the Armed Services, Whether Male or Female, and Providing When and in What Cases the Provisions Thereof May Be Effective.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 4536, Revised Codes of Montana, 1935, as amended by Chapter 163, Laws of 1937, and Chapter 52, Laws of 1939, be, and the same is hereby amended to read as follows: Sec. 4636, R. C. 1935, as amended, hereby further amended.

"Section 4536. It shall be the duty of the board of commissioners of each county in this state to designate some proper person in the county, who shall be known as veterans' burial supervisor, preferably an honorably discharged soldier, sailor or marine, whose duty it shall be *to cause to be decently interred the body of any honorably discharged person, whether male or female, and including nurses, who shall have served in any branch of the armed services of the United States and who may hereafter die.* Such burial shall not be made in any burial grounds or cemetery, or in any portion of any burial grounds or cemetery, used exclusively for the burial of pauper dead; provided, (1) the expense of burial shall be the sum of one hundred fifty dollars ($150.00), to be paid by the county commissioners of the county in which the deceased was an actual bona fide resident at the time of death, and provided (2) that the benefits hereof shall not be available in the case of any decedent whose executor, administrator or heirs waive the benefits hereof. Veterans' Burial Supervisor. Place of burial. Cost of burial.

"In the event *any such honorably discharged person, male or female*, who shall have served in the *armed services* of the United States, and who is a resident of the State of Montana, shall die while temporarily absent from the state or county of his residence, then the provisions of this act Death of veteran while temporarily absent from county or state.

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shall apply, and the burial expenses not exceeding the amount herein specified shall be paid in the same manner as above provided.

Burial by state institution.

"Whenever *any such honorably discharged person, male or female* hereinbefore described shall die at any public institution of the State of Montana, other than the state soldiers' home, and burial for any cause shall not be made in the county of the former residence of the deceased, the officers of said state institution, as aforesaid, shall provide the proper burial herein prescribed except that the expense of each burial shall not exceed the sum herein allowed, which expense shall be paid by the county in which the decedent resided at the time of entry into such institution, but no such burial shall be covered by any special or standing contract whereby the cost of burial is reduced below the maximum hereinbefore fixed, to the disparagement of proper interment."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force *and effect* from and after its passage and approval.

Approved February 12, 1945.

CHAPTER 26

An Act to Amend Section 612 of the Revised Codes of Montana of 1935 Relating to Convention or Primary Meeting Defined, and Providing for the Nomination of Candidates to Fill Vacancies Which May Happen in the Office of Representative in the United States Congress From Any Congressional District of the State of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 612, R. C. 1935, amended.

Section 1. That Section 612 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

"Section 612. **Convention or Primary Meeting Defined. *Vacancies.*** Any convention or primary meeting held for the purpose of making nominations to public office, or the number of electors required in this chapter, may nominate

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candidates for public office to be filled by election in the state. A convention or primary meeting within the meaning of this chapter is an organized assemblage of electors or delegates representing a political party or principle, *and in the event a vacancy shall happen by death or resignation in the representation from any congressional district of the State of Montana in the house of representatives of the congress of the United States, only the electors residing within such congressional district shall vote at any such convention or primary meeting held for the purpose of making nominations to fill such vacancy.*"

Convention or primary meeting defined.

Voting for nominee to fill vacancy in office of representative in congress limited to electors residing in district.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Effective date.

Approved February 12, 1945.

CHAPTER 27

An Act to Amend Section 640 of the Revised Codes of Montana of 1935, Relating to Petitions for Nomination to Be Filed, Providing That in the Case of a Person Whose Name is Written in on the Primary Ballot That, to Accept Such Nomination, Such Person Must Receive At Least Five Per Cent (5%) of the Votes Cast for Such Office At the Last Preceding General Election.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 640 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Sec. 640, R. C. 1935, amended.

"Section 640. **Petitions for Nomination to be Filed.** Any person who shall desire to become a candiate for nomination to any office under this law shall send by registered mail, or otherwise, to the secretary of state, county clerk, or city clerk, a petition for nomination, signed by himself, accompanied by the filing fee hereinafter provided for, and such petition shall be filed and shall be conclusive evidence for the purpose of this law that such elector is a candidate for nomination by his party. All nominating petitions pertaining to congressional, state or district offices to be voted for in more than one county, and for judges of the district court shall be filed in the offices of the secretary of state; for county and district offices, to be voted for in one county

Petitions for nominations to be filed.

Where filed.

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only, and for township and precinct offices, shall be filed in the office of the county clerk; and for all city offices in the office of the city clerk.

Filing fees.

The fees required to be paid for filing such petitions shall be as follows:

For any office with a salary attached of one thousand dollars ($1,000.00) or less per annum, ten dollars ($10.00); except candidates for the state senate and house of representatives shall be fifteen dollars ($15.00).

For any office with a salary attached of more than one thousand dollars ($1,000.00) per annum, one per cent (1%) of total amount of annual salary.

For the office of county commissioner in counties of the first class, forty dollars ($40.00); in counties of the second class, thirty-five dollars ($35.00); in counties of the third class, thirty dollars ($30.00); in counties of the fourth class, twenty-five dollars ($25.00); in all other classes of counties, ten dollars ($10.00).

For the office the compensation of which consists of fees instead of a salary, five dollars ($5.00).

For state, county and precinct committeeman, delegates to national conventions and presidential electors no fees shall be required to be paid.

Person nominated by write-in on primary ballot, duty of.

Any person receiving the nomination by having his name written in on the primary ballot, and desiring to accept such nomination, shall file with the secretary of state, county clerk, or city clerk, a written declaration indicating his acceptance of said nomination within ten (10) days after the election at which he receives such nomination, and at the same time he shall pay to the officer with whom such declaration of acceptance is filed the fee above provided for filing a primary nominating petition for such office, *provided that such person must receive at least five per cent (5%) of the votes cast for such office at the last preceding general election.* No candidate receiving a nomination at a primary election as above provided shall have his name printed on the official ballot for the general election without complying with the provisions of this section."

Number of votes required for such nomination.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 12, 1945.

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CHAPTER 28

An Act Relating to Elections At Which Questions Are to Be Submitted Concerning the Incurring of a State Debt, the Issuance of Bonds or Debentures by the State or the Levying of a State Tax for Any Purpose; Defining and Prescribing the Qualifications of Electors Entitled to Vote at Such Elections; Providing for the Closing of Registration and the Giving of Notice of Such Closing; and Prescribing the Duties of the County Clerk in Preparing Lists of Registered Electors Qualified to Vote at Such Elections and the Preparation of Poll Books; and Repealing All Acts and Parts of Acts in Conflict With This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. At all elections at which the question submitted is the incurring of a state debt, the issuance of bonds or debentures by the state, other than refunding bonds or debentures, or the levying of a state tax for any purpose, only registered electors residing within the state and who are taxpayers upon property therein and whose names appear upon the last completed assessment roll of some county of the state for state, county and school district taxes, shall be qualified to vote on such question. Whenever any such question is to be submitted at an election, other than a general biennial state election, the county clerk of each county must cause to be published one time in the official newspaper of the county a notice, signed by him, stating that registration will close at noon on the thirtieth day prior to the date for the holding of the election at which the question is to be submitted, unless the act providing for the submission of the question shall fix a different time for the giving of such notice and at that time registration shall be closed. Such notice shall be published at least ten (10) days prior to the date when registration will be closed, unless the act providing for the submission of the question shall fix a different time for such closing of registration. Provided, that if the question is to be submitted at a general biennial state election then such notice of the closing of registration and the closing of registration shall be controlled and governed by the laws applying to the giving of such notice and closing of registration for such general biennial election.

Electors, qualifications of at elections on question of incurring state debt or levy of state tax.

Notice of close of registration.

Publication of notice.

Proviso.

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Lists and poll books.

Section 2. After the closing of registration the county clerk of each county shall promptly prepare lists of registered electors of all voting precincts in his county who are qualified to vote on the question to be submitted at such election, and shall prepare poll books for such election generally in the manner provided by Section 568, Revised Codes of Montana, 1935, except that such poll books shall contain only the names of the electors qualified to vote on such question at such election, and deliver the same to the judges of election prior to the opening of the polls, and except that it shall not be necessary to print or post such lists of registered electors. All of the laws of this state applying to the holding of general biennial state elections, insofar as the same are applicable thereto and not in conflict with any of the provisions of this act, shall apply to, and govern and control such election and the canvassing and return of the votes cast on such question at such election; and abstracts made by the several county clerks shall be returned to the secretary of state in the manner provided by Sections 801 and 802, Revised Codes of Montana for 1935, for the abstract of votes for state officers.

Application of laws re general biennial state elections.

Duties of secretary of state and county clerks.

Section 3. When any such law is to be submitted at a general biennial election, all of the provisions of Section 105, Revised Codes of Montana, 1935, prescribing the duties of the secretary of state and county clerks, shall apply to and govern and control the printing and distribution of copies of such law.

Repealing clause.

Section 4. All acts and parts of acts in conflict herewith are hereby repealed; provided, however, that nothing in this act shall be deemed to repeal Chapter 44 of the laws of the twenty-seventh legislative assembly of 1941.

Effective date.

Section 5. This act shall be in full force and effect on and after its passage and approval.

Approved February 12, 1945.

CHAPTER 29

An Act to Amend Section 12009 of the Revised Codes of Montana of 1935, Relating to Accommodations for Jury After Retirement; Providing Separate Room for Women Jurors, and Repealing All Acts and Parts of Acts in Conflict Herewith.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 12009 of the Revised Codes of Montana of 1935, be, and the same hereby is amended to read as follows:

Sec. 12009, R. C. 1935, amended.

"Section 12009. **Accommodations for Jury, Separate Room for Women Jurors.** A room must be provided by the county commissioners of each county for the use of the jury, upon their retirement for deliberation, with suitable furniture, fuel, lights and stationery. If the county commissioners neglect, the court may order the sheriff to do so, and the expenses incurred by him in carrying the order into effect, when certified by the court, are a county charge; *provided, however, as it shall become necessary for the jury to retire for the night, then, said board of county commissioners shall provide a room for the female members of the jury which shall be separate and apart from the room provided for the male members.*"

Accommodations for jury.

Separate room for women jurors.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved February 12, 1945.

CHAPTER 30

An Act Regulating and Defining Gaseous Mines; Requiring Certain Reports to State Coal Mine Inspector; Making Removal of Gases by Certain Methods Unlawful; Requiring Inspection Before Arc-welding; Requiring Danger Signs in Certain Places; Providing Rules and Regulations for Ventilation; Requiring Safety Lamps to Be Used When Operating Certain Machines; Making Violations of the Act a Misdemeanor and Providing Penalties for the Violation Thereof.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. A gaseous mine shall be considered as one in which methane can be detected by an approved safety lamp in any working place on three different working dates within a period of thirty days, or if, from such place or places, samples of the air can be gathered which show, by chemical analysis, one per cent (1%) or more of methane, or if one-half per cent (½%) or more can be found in any return air current, as determined by chemical analysis.

"Gaseous mine" defined.

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A mine will also be classified as gaseous if methane, as determined in the preceding paragraph, can be found in abandoned workings which are not bulk-headed off, or if there is liable to be an inrush of gas due to falls or caves of the overlying strata, as determined by conditions in the mine or in adjoining or nearby mines.

Report to state coal mine inspector.

Upon finding the presence of gas in any part of a mine, classed as non-gaseous, a report shall be made at once by the company to the state coal mine inspector.

Bodies of gas, removal of.

Arc welding.

It shall be unlawful for any owner, operator, superintendent, mine foreman or any employee of any mine which generates explosive gases to remove any accumulated body of gases by wafting or brushing. All such bodies of gas must be removed from the mine by approved methods of ventilation. When it is necessary that arc-welding be done underground in a gaseous mine, a certified man must first inspect and report it safe before starting welding, other than in the main fresh air intake.

Posting of danger signs.

In gaseous mines, worked-out areas which are not sealed off, shall be well posted with danger signs and so ventilated as to prevent any accumulation of explosive and noxious gas.

Air from worked-out areas.

Air from worked-out areas must be conducted into the return airway without passing through working rooms or entries.

Safety lamps.

When gas is detected.

In all mines classed as gaseous all operators of coal cutting machines, electric drilling machines, and coal loading machines must be furnished safety lamps for testing and examining each place for gas before taking said machines inby the last open cut-through, and in no instance must any person incompetent to understand the operation of flame safety lamps and the detection of gas be allowed to operate any of said machines. Machines as hereinabove described shall not be taken into any place found to be containing gas. In detecting gas during operation of machines, operation must cease, power be cut off machine, and gas findings reported to foreman or person in charge. Machine operation must not continue until place is freed of gas. In all mines classified as gaseous all new electrical equipment installed and operated inby the last open breakthrough shall be of a permissible type. "Permissible type" is defined to mean as prescribed or approved by the United States bureau of mines.

"Permissible type."

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Section 2. Any person or persons violating the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be imprisoned for a term not exceeding six (6) months in the county jail or fined a sum not to exceed one hundred dollars ($100.00), or both such fine and imprisonment. Any owner, superintendent, mine boss or fire boss who shall knowingly permit violations of this act shall be deemed guilty of a misdemeanor and upon conviction thereof be subjected to the same penalties as hereinbefore prescribed. Penalty.

Section 3. That all acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved February 12, 1945.

CHAPTER 31

An Act Requiring Rock Dusting in Certain Coal Mines; Providing Regulations Therefor; Providing for Rock Dust Barriers in Worked-out Sections of Certain Coal Mines; and Providing Penalties for the Violation Thereof.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Rock dusting shall be done with such regularity and frequency that all surfaces required to be rock dusted in dry mines shall be kept in such a condition that the incombustible content of the adhering dust shall not be less than sixty-five per cent (65%). Rock dusting required.

The rock dust shall be distributed on roof, sidewalls, floor, and on top of all timbered sections of all main haulageways, all active entries to the last open cross-cut, and to a distance of not less than forty (40) feet from the face of all active rooms and pillar workings and return airways. Whenever, by analysis, the rock dust material in any part of a mine so treated, shows a total incumbustible content lower than that determined as necessary to render the coal dust inert, the section in question shall be fenced off, or the mine closed until sufficient inert material has been added to allow of safe operations. Distribution of rock dust. Fencing off section or closing mine, when.

In all worked-out sections of gaseous mines from which haulage facilities have been removed to the extent of making

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Barriers required, when.

Type and installation of.

the cost of rock dusting prohibitive there shall be installed rock dust barriers so placed that an explosion originating in that level or panel cannot extend to other parts of the mine. These rock dust barriers shall be of a type which have been tested and approved by the United States bureau of mines, and shall be correctly installed.

All mines except those which in the judgment of the state coal mine inspector are consistently damp throughout, must be rock dusted in accordance with the requirements of this act. The terms "consistently damp" will be construed to mean only those certain mines where the moisture content of the mine is so high as to prevent the accumulation of dry coal dust on the surface of rooms, entries, and other worked-out or partially worked-out portions of the mine.

Section 2. Any violations of the provisions of this act shall constitute a misdemeanor and shall be punishable under the provisions of Section 3545 of the Revised Codes of Montana, 1935, and acts amendatory thereto.

Section 3. That all acts and parts of acts in conflict herewith are hereby repealed.

Approved February 12, 1945.

CHAPTER 32

An Act to Provide for Sectionalizing Switches on Electric Lines in Coal Mines and Making It Unlawful to Extend Such Lines past the Last Open Break-through; Making It Unlawful to Perform Certain Acts by Nipping in Coal Mines Generating Gas; and Providing Penalties for the Violation Thereof.

Be it enacted by the Legislative Assembly of the State of Montana:

Sectionalizing switches, installation of.

Section 1. Sectionalizing switches shall be installed on the direct current feeder and trolley wires so that power can be cut off from any idle portions of coal mines. It shall be unlawful to install or extend power lines or trolley lines past the last open break-through in coal mines generating gas.

It shall be unlawful for any person or persons in coal

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mines known to be generating gas to move cutting, drilling and loading equipment, and cable reel locomotives by nipping.

Moving certain equipment in gaseous coal mines by nipping forbidden.

Section 2. Any violations of the provisions of this act shall constitute a misdemeanor and shall be punishable under the provisions of Section 3545 of the Revised Codes of Montana, 1935, and acts amendatory thereto.

Penalty.

Section 3. That all acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved February 12, 1945.

CHAPTER 33

An Act to Require the Installing of and Regulating the Location of Telephones in Coal Mines; and Providing Penalties for the Violation Thereof

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. A system of party line telephones shall be installed, and kept in working condition by the coal mining company installing same in each coal mine in operation in the State of Montana employing more than fifteen (15) men. Said telephone equipment shall include one (1) telephone on the surface within one hundred (100) feet of the mine tipple, one (1) at the bottom of each hoisting shaft and in drift or slope mines at the first cross entry or parting in operation where men are liable to congregate or be stationed. In addition thereto there shall be one (1) telephone on each side of the mine, if such side is in more than one thousand (1,000) feet from the bottom of the hoisting shaft or in beyond one thousand (1,000) feet past the first cross entries or parting in operation in a drift or slope mine.

Installation and location of telephones in certain coal mines.

Telephones inside any coal mine may be changed to more convenient locations, other than designated in this section, if in the opinion of the state coal mine inspector it should make for greater safety for the men employed therein.

Location changes permitted, when.

Section 2. Any violations of the provisions of this act shall constitute a misdemeanor and shall be punishable under the provisions of Section 3545 of the Revised Codes of Montana, 1935, and acts amendatory thereto.

Penalty.

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Repealing clause.

Section 3. That all acts or parts of acts in conflict herewith are hereby repealed.

Approved February 12, 1945.

CHAPTER 34

An Act to Amend Section 650 of the Revised Codes of Montana 1935 Relating to Election Supplies to Be Printed and Furnished by the County.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 650, R. C. 1935, amended.

Section 1. That Section 650 of the Revised Codes of Montana 1935 be and the same is hereby amended to read as follows:

Supplies printed and furnished by county.

"Section 650. **Supplies Printed and Furnished by County.** All blanks, ballots, poll books and other supplies to be used at any primaries shall be provided, and all expenses necessarily incurred in the preparation for, or conducting such primaries shall be paid out of the treasury of the county in the same manner and by the same officers as in the case of elections."

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 13, 1945.

CHAPTER 35

An Act Empowering Building and Loan Associations to Make Any Loan Which is Guaranteed in Whole or in Part by the United States or Any Federal Agency or Federal Instrumentality Thereof Under the Servicemen's Readjustment Act of 1944 or Any Amendment Thereto Enacted by the Congress of the United States Provided Such Loan Shall Be Secured by a First or Second Mortgage On Real Estate and Also Providing That the Provisions of This Act Shall Control Where the Provisions of This Act Are Inconsistent With the Provisions of Any Other Law Governing Building and Loan Associations.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. All building and loan associations organized under the laws of the State of Montana are hereby empowered to make any loan which is guaranteed in whole or in part by the United States or any federal agency or federal instrumentality thereof, under the Servicemen's Readjustment Act of 1944 or any amendment thereto, enacted by the congress of the United States, provided such loan shall be secured by either a first or second mortgage on real estate.

Building and loan associations empowered to make certain loans.

Section 2. **Act Controlling.** Insofar as the provisions of this act are inconsistent with the provisions of any other law governing building and loan associations, the provisions of this act shall control.

Act controlling.

Section 3. **Effective Date.** This act shall be in full force and effect from and after its passage and approval.

Effective date.

Approved February 13, 1945.

CHAPTER 36

An Act to Amend Section 5306 of the Revised Codes of Montana 1935 As Amended by Chapter 1 of the Session Laws of 1941, Relating to the Power of a Council to Discontinue Streets or Alleys, to Provide That the County Commissioners Have the Power to Discontinue Streets or Alleys in Unincorporated Towns or Townsites and to Validate All Proceedings Heretofore Had Discontinuing Any Streets or Alleys.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 5306 of the Revised Codes of Montana, as amended by Chapter 1 of the Session Laws of 1941, relating to the discontinuance of a street or alley, be, and the same is hereby amended to read as follows, to-wit:

Sec. 5306, R. C. 1935, as amended, further amended.

"Section 5306. The council, or county commissioners if the town be unincorporated, may discontinue a street *or alley*, or any part thereof, in a city or town or unincorporated town *or townsites*, upon the petition in writing of all owners of lots on the streets or alleys, if it can be done without detriment to the public interest; provided that

Streets or alleys, discontinuance of authorized.

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where the street or alley is to be closed for school purposes, a petition signed by seventy-five per cent (75%) of the lot owners on the whole street or alley to be closed, will be required; *provided further that such vacation shall not affect the right of any public utility to continue to maintain its plant and equipment in any such streets or alleys.*

Proviso, as to public utility plant and equipment.

All proceedings heretofore had and all orders heretofore made by the city council of any city or town or, if the town be unincorporated, by the county commissioners, discontinuing any street or alley or any part thereof in a city or town or unincorporated town or townsites are hereby validated, confirmed, and declared to have discontinued said streets, alleys or parts thereof, as of the date thereof."

Proceedings and orders heretofore had and made, validation of.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved February 15, 1945.

CHAPTER 37

An Act Creating and Establishing a Montana Highway Patrolmen's Retirement System; Creating and Establishing a Fund to Be Known As the Montana Highway Patrolmen's Retirement Fund; Providing for Payments Upon Retirement, Death, Disability, Voluntary and Involuntary Retirement From the Montana Highway Patrolmen's Retirement Fund; Providing for the Creation of a Board of Trustees and Defining Its Powers and Duties; Providing for Contributions By Members of the Montana Highway Patrol; Providing for the Appropriation By the State of Montana of Certain of Said Funds; Providing for the Subrogation of the State of Montana to the Rights of the Member or Dependent Against Certain Third Parties; Exempting Annuities, Allowances, Returns, Benefits and Rights from Taxation and Judicial Process; Providing for Penalties, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The following words and phrases as used in this act, unless a different meaning is plainly implied by the context, shall have the following meanings:

Definitions.

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"Accumulated deductions," the total of the amounts deducted from the salary of a contributor and paid into the fund, and standing to his credit in the fund, together with the regular interest thereon. "Accumulated deductions."

"Beneficiary," any person in receipt of a retirement allowance under this act. "Beneficiary."

"Board," the Montana highway patrolmen's retirement board. "Board."

"Compulsory retirement age," sixty years of age. "Compulsory retirement age."

"Contributor," any person who has accumulated deductions in the fund, standing to his credit. "Contributor."

"Final salary," the average annual compensation received by a contributor before any deductions have been made, and exclusive of maintenance, allowances and expenses, for the five years of service immediately preceding retirement, or, in the event a member has not served five years, the total retirement compensation earned, divided by the number of years served. "Final salary."

"Fund," the Montana highway patrolmen's retirement fund. "Fund."

"Involuntary retirement," a retirement not for cause and before retirement age. "Involuntary retirement."

"Member's annuity," payments for life derived from contributions made by the contributor. "Member's annuity."

"Optional retirement age," the age at which a contributor may retire after twenty (20) years' service or more. "Optional retirement age."

"Retirement age," the age at which a member retires after twenty-five (25) years of creditable service with the Montana highway patrol. "Retirement age."

"Retirement allowance," the state annuity plus the member's annuity. "Retirement allowance."

"State annuity," payments for life derived from contributions made by the State of Montana. "State annuity."

Section 2. **Montana Highway Patrolmen's Retirement System.** A retirement system is hereby established for the members of the Montana highway patrol. Montana highway patrolmen's retirement system.

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Montana highway patrolmen's retirement board.

Section 3. **Montana Highway Patrolmen's Retirement Board.** There is hereby established the Montana Highway Patrolmen's Retirement Board, which shall consist of five (5) members, who shall be the chairman of the Montana highway patrol board, the supervisor of the Montana highway patrol, the attorney for the Montana highway patrol, and two (2) members of the Montana highway patrolmen's association, to be annually elected by the said association. The secretary of the Montana highway patrol board shall act as secretary of the board.

Administrative expenses.

Section 4. **Administrative Expenses.** The expense of the administration of this act, exclusive of the payment of retirement allowances and other benefits, shall be paid by the State of Montana, by appropration out of the general fund, made on the basis of budgets submitted by the board.

Payments into retirement fund.

Section 5. **Payments Into the Montana Highway Patrolmen's Retirement Fund.** All appropriations made by the State of Montana, all contributions by members of the Montana highway patrol, in the amount hereinafter specified, and all interest on and increase of the investments and moneys under this account shall be paid to the state treasurer, who shall credit said payments to the Montana highway patrolmen's retirement fund.

Rules and regulations.

Actuarial data.

Section 6. **Rules and Regulations; Actuarial Data.** The board shall, from time to time, establish such rules and regulations for the administration of this act as may be deemed necessary. It shall keep such data as shall be necessary for actuarial valuation purposes. It shall cause to be made periodic actuarial investigations into the mortality and service experience of the contributors to and the beneficiaries of the fund, and shall adopt for the retirement system one or more mortality tables.

Membership of retirement system.

Section 7. **Membership.** Every member of the Montana highway patrol, including the supervisor and assistant supervisors, but excepting the present supervisor, shall be required to become a member of the retirement system established by this act on July 1, 1945, and thereafter when first becoming a member of the Montana highway patrol. Contributions by members under this act shall commence with the first payroll after July 1, 1945. If any person who becomes a member of the Montana highway patrol subsequent to July 1, 1945, shall have been at any time theretofore a member of the Montana highway patrol, he shall re-

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ceive credit for any such service prior to July 1, 1945, upon complying with the provisions of this act.

Section 8. **Service Allowance.** In computing the length of service of a contributor for retirement purposes, full credit shall be given to each contributor for each year of service rendered to the patrol including service rendered prior to July 1, 1945, upon complying with the provisions of this act. As soon as practicable, the retirement board shall issue to each original member a certificate certifying the aggregate length of his service prior to July 1, 1945. Such certificate shall be final and conclusive as to his prior service unless thereafter modified by the board upon application of the contributor. The time during which a contributor is absent from service without pay shall not be counted in computing the service of a contributor unless approved by the board.

Service allowance.

Section 9. **Payments by Contributors.** Every member shall be required to contribute into the fund a sum equal to three and one-half per cent (3½%) of his monthly salary, which sum shall be deducted from his salary and credited to his account in the fund. Every member who was in the employ of the Montana highway patrol prior to July 1, 1945, shall have the option and he may elect to make back payments to the date when he first entered the service of the Montana highway patrol. Such back payments may be spread over a period of two (2) years by having the regular payroll deduction of the contributor increased in an amount equal to the total of his back payments divided by twenty-four (24), which deduction increase shall be credited to such back payments owing and shall be continued until the full amount of such back payments shall have been completed. Any such deduction increase may be anticipated in part or in full by the contributor at any time and must be anticipated in full at the time of retirement before a retirement allowance is granted, and if not so anticipated and paid in full then a member's annuity shall be calculated on the total accumulated deductions standing to his credit in the fund, and the state annuity shall be reduced in proportion to the reduction which occurs in the member's annuity due to the amount of back payments not so anticipated. Every contributor who shall elect to make such back payments shall receive full credit under this act for all contributions made into the fund and for all service credits to which he might thereby be entitled, provided that when a

Payments by contributors.

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Payments and contributions cease, when.

member has served twenty-five (25) years in the Montana highway patrol all payments by him and contributions to his credit from the fund shall cease.

Contributions by state.

Section 10. **Contributions by the State of Montana.** The State of Montana shall annually contribute to the fund ten per cent (10%) of all moneys received by the State of Montana from the collection of the motor vehicle driver's license fee provided for in Section 11 of Chapter 199, laws of the twenty-eighth legislative assembly, for a period of ten (10) years from and after July 1, 1945. But not to exceed seven and one-half (7½c) cents for each such license sold, in the event the present fee should be raised in the ensuing ten (10) years.

Retirement.

Section 11. **Retirement.** Any member in service who has completed at least twenty-five (25) years of creditable service may retire on a service retirement allowance upon written application to the board setting forth at what time, not less than thirty (30) days nor more than ninety (90) days subsequent to the filing thereof, he desires to be retired.

Voluntary retirement.

Section 12. **Voluntary Retirement.** If a contributor has served twenty (20) years of creditable service with the Montana highway patrol, he is hereby granted the option and privilege of retiring and in such case, his retirement allowance shall be proportionately reduced on an actuarial basis.

Retirement allowance.

Section 13. **Retirement Allowance.** Upon retirement from service a member shall receive a service retirement allowance which shall consist of the state annuity plus the member's annuity. The member's annuity shall be the actuarial equivalent of his aggregate contributions at the time of retirement and the state annuity shall be in an amount which, when added to the member's annuity, will provide a total retirement allowance of one-half (½) of his average final salary.

Disability retirtment allowance.

Section 14. **Disability Retirement Allowance.** In case of the total disability of a contributor, permanent in character, regardless of the length of service of the contributor, a disability retirement allowance shall be granted the contributor in an amount calculated on the actuarial equivalent of the member's annuity and the state annuity standing to his credit at the time of his disability retirement.

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Section 15. **Involuntary Retirement Allowance.** Should a contributor be discontinued from service, not voluntarily, after having completed ten (10) years of total service, but before reaching retirement age, he shall, upon filing of application in the manner herein provided for retirement, be paid as he may elect as follows: (a) the full amount of accumulated deductions standing to his credit; or (b) a member's annuity of equivalent actuarial value to his accumulated deductions standing to his credit, plus a state annuity having a value equal to the present value of a state annuity then standing to his credit.

Involuntary retirement allowance.

Section 16. **Compulsory Retirement Allowance.** Any member, regardless of his years of service, who has attained the age of sixty (60) years, shall forthwith be retired. If he shall have served twenty-five (25) years or more, he shall receive the full retirement allowance as provided herein. If he shall have served less than twenty-five (25) years, he shall be entitled to the same options as provided in section 15 above.

Compulsory retirement allowance.

Section 17. **Refunds in Case of Resignation or Discharge.** Where a contributor resigns of his own volition, or is discharged for cause before becoming entitled to a retirement allowance, then one-half (½) the accumulated deductions standing to his credit shall be paid to him.

Refunds in case of resignation or discharge.

Section 18. **Payments Upon Death.** If the board shall find that a contributor died as a direct and proximate result of injury received in the course of his employment, a retirement allowance shall be paid to his widow so long as she remains his widow and if and when such widow dies or remarries, then to his children under eighteen (18) years of age while they are under eighteen (18) years of age, and if and when there are no children under eighteen (18) years of age, then to the member's parent or parents if they are dependent.

Payments upon death.

Such retirement allowance shall consist of: (a) a member's annuity which shall be the actuarial equivalent of the contributor's accumulated deductions standing to his credit; and (b) a state annuity equal to fifty per cent (50%) of the final salary of the contributor, less the amount which is paid to any such widow or children or dependent parent or parents under the workmen's compensation act of the State of Montana, during the period such compensation is paid or payable.

Retirement allowance consists of what.

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Payments in case of death from natural causes.

Section 19. **Payments in Case of Death from Natural Causes.** (a) If the beneficiary dies before receiving in payments the present value of his member's annuity and the state annuity as it was at the time of his retirement, the balance shall be paid to his legal representatives or to such person having an insurable interest in his life as he shall nominate by written designation duly acknowledged and filed with the board. (b) If a member dies before reaching retirement age, his legal representatives or the person having an insurable interest in his life as he shall nominate by written designation duly acknowledged and filed with the board, shall be entitled to either of the two options as provided in section 15 above.

Monthly payments of retirement allowances.

Section 20. **Monthly Payments of Retirement Allowances.** The retirement allowances granted under the provisions of this act shall be paid in equal monthly installments and shall not be increased, decreased, revoked or repealed unless by act of the legislative assembly of the State of Montana.

Exemption from taxes and execution.

Section 21. **Exemption from Taxes and Execution.** Any money received or to be paid as a member's annuity, state annuity or return of deductions or the right of any of these, shall be exempt from any state or municipal tax and from levy, sale, garnishment, attachment or any other process whatsoever and shall be unassignable.

Nomination of beneficiary.

Section 22. **Nomination of Beneficiary.** Every contributor shall have the authority to name his beneficiary by written designation duly acknowledged and filed with the board, and to change the beneficiary in like manner. Such designation and all changes must be filed with the board up until, but not after, the time of retirement.

Service in the armed forces of the United States.

Section 23. **Service in the Armed Forces of the United States.** Any member of the Montana Highway Patrol now in or hereafter inducted into the armed forces of the United States, shall have the option: (a) to continue his payments into the fund; or (b) allow the board to make his payments for him during such military service, in which event he shall repay the fund the full amount of such payments upon his return to the Montana highway patrol, and such repayments must be made within two (2) years after his return to the patrol in the same manner as provided in section 9 of this act, provided that a member's service in

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the armed forces of the United States shall be credited to and made a part of the member's service allowance.

Section 24. **Fraud: Correction of Errors.** (a) No person shall knowingly make any false statement, or shall falsify or permit to be falsified any record or records of the retirement system herein established in any attempt to defraud such system. (b) Should any such change in records fraudulently made or any mistake in records inadvertently made result in any contributor or beneficiary receiving more or less than he would have been entitled to had the records been correct, then, on the discovery of such error, the board shall correct such error and shall adjust the payments which shall be made to the contributor or annuitant in such manner that the actuarial equivalent of the benefit to which he was correctly entitled shall be paid.

Fraud forbidden.

Correction of errors.

Any person violating any of the provisions of subsection (a) of this section shall be guilty of a misdemeanor, and, upon conviction, shall be sentenced to pay a fine not exceeding one thousand ($1,000.00) dollars or suffer imprisonment not exceeding one (1) year, or both, in the discretion of the court.

Penalty.

Section 25. **Restrictions Upon Payments.** If any beneficiary is convicted of a felony, the board shall have the authority to revoke or suspend, for as long a time as it sees fit, disbursement of the state annuity. Where the illness or injuries causing a contributor to be retired, or where the death of a contributor is directly and proximately caused by such contributor's immoral or intemperate conduct or gross negligence, the board shall have the authority to refuse, revoke, or suspend for as long a time as it sees fit disbursement of the state annuity.

Restrictions upon payments.

Section 26. **Subrogation.** Where a third person is liable to the member or his dependents for injury or death, the state shall be subrogated to the right of the member or the dependents against such third person; but only to the extent of the state annuity payable under this act by the state. Any recovery against such third person, in excess of the state annuity theretofore paid or thereafter to be paid by the state shall be paid forthwith to the contributor or the person designated by the contributor.

Subrogation.

Section 27. **Payments Under Other Laws.** All payments provided for in this act are in addition to any other

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Payments under other laws.

benefits now or hereafter provided for under the workmen's compensation act of the State of Montana.

Constitutional provisions.

Section 28. **Constitutional Provisions.** The provisions of this act are severable, and, if any of its provisions shall be held to be unconstitutional, the decision of the court shall not affect or impair any of the remaining provisions. It is hereby declared to be the legislative intent that this act would have been adopted had such unconstitutional provisions not been included herein.

Repealing clause.

Section 29. **Repeal.** All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 15, 1945.

CHAPTER 38

Title of act.

An Act Amending the Coal Mining Code of the State of Montana; and Amending Section 3450 of the Revised Codes of Montana, 1935, As Amended by Chapter 113, Session Laws of 1941, Defining the Powers and Duties of the State Coal Mine Inspector; and Amending Section 3452 of the Revised Codes of Montana, 1935, Relating to the Instruments to Be Furnished the Coal Mine Inspector; and Amending Section 3453 of the Revised Codes of Montana, 1935, Relating to the Posting of Statements At Mine Entrances and Enumerating Additional Statements Required As to the Circulation of Air; and Amending Section 3501 of the Revised Codes of Montana, 1935, As Amended by Chapter 146, Session Laws of 1937 and Chapter 145, Session Laws of 1939, Relating to the Ventilation of Coal Mines and Making It Unlawful to Install Booster Fans in Gaseous Mines Except As Provided in This Act; and Amending Section 3504 of the Revised Codes of Montana, 1935, As Amended by Chapter 146 of the Session Laws of 1937 Relating to Cross-cuts and Brattices for Ventilation; and Amending Section 3507 of the Revised Codes of Montana, 1935, Relating to the Underground Stables; and Amending Section 3516 of the Revised Codes of Montana, 1935, Requiring Inspection of Certain Mines Within Three (3) Hours Prior to Shift Going On Duty; and Amending Section 3517 of the Revised Codes of Montana, 1935, Relating to Safety-lamps and Self-rescuers in Mines; and

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Amending Section 3518 of the Revised Codes of Montana, 1935, Providing That Only Safety-lamps Be Used; and Amending Section 3521 of the Revised Codes of Montana, 1935, Relating to the Manner of Storing of Explosives in Mines; and Amending Section 3522 of the Revised Codes of Montana, 1935, Relating to the Manner of Handling of Explosives in Mines; and Amending Section 3523 of the Revised Codes of Montana, 1935, Relating to Tamping Tools; and Amending Section 3524 of the Revised Codes of Montana, 1935, Relating to System of Blasting; and Amending Section 3525 of the Revised Codes of Montana, 1935, Relating to the Care of Working Places; and Amending Section 3526 of the Revised Codes of Montana, 1935, Relating to the Duties of Machine-men; and Amending Section 3527 of the Revised Codes of Montana, 1935, Relating to the Duties of Motormen, Trip Riders and Drivers and to Provide Locomotives to Be Equipped With Gongs and Head Lights; and Amending Section 3528 of the Revised Codes of Montana, 1935, Relating to Duties of Other Employees and the Use of Life Checks by Employees; and Amending Section 3534 of the Revised Codes of Montana, 1935, Relating to Checking Men In and Out of Mines and *the* Rights of Men to Come Out *of Mines;* and Amending Section 3540 of the Revised Codes of Montana, 1935, Relating to Coroner's Inquest; and Amending Section 3541 of the Revised Codes of Montana, 1935, Relating to the Code of Signals At Coal Mines; and Amending Section 3545 of the Revised Codes of Montana, 1935, Providing for Penalties for Violation of This Act; and Specifically Repealing Section 3456 of the Revised Codes of Montana, 1935, Regarding Refusal of Operators to Allow Examination, or to Furnish Facilities for Examination; and Specifically Repealing Section 3519 of the Revised Codes of Montana, 1935, Relating to Keys for Safety-lamps; and Specifically Repealing Section 3536 of the Revised Codes of Montana, 1935, Relating to Oils to Be Used in Coal Mines; and Repealing All Acts and Parts of Acts in Conflict Herewith.

Title of act.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 3450, Revised Codes of Montana, 1935, as amended by Chapter 113 of the Session Laws

Sec. 3450, R. C. 1935, as amended, further amended.

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of 1941, be, and the same is hereby amended to read as follows:

"Section 3450. **Powers and Duties of Inspector.** The State Coal Mine Inspector shall have the right, and it is hereby made his duty, to enter, inspect and examine any coal mine or any shaft, drift, or slope in the process of sinking for the purpose of mining coal in this state, and the workings and the machinery belonging thereto, at all reasonable times, either by day or night, but not so as to impede or obstruct the workings of the mine. He shall also have the right and it is his duty to make inquiry into the conditions of such mine, workings, machinery, scales, ventilation, drainage, method of lighting or using lights, and into all methods and things connected with or relating to, as well as to make suggestions providing for the health and safety of persons employed in or about the same, and especially to make inquiry whether or not the provisions of the laws providing for the regulation of coal mines, or other acts which may hereafter be enacted governing coal mines, have been complied with. *Said inspector or his deputy or deputies shall immediately notify the owner, lessee, superintendent or mining boss of the discovery of any violation of the mining laws of this state, and of the penalty thereby imposed for such violations; and in case such notice is disregarded, such inspector or deputy or deputies shall have the power to stop immediately the working and operation of any mine or any part thereof where any dangerous or unlawful conditions are found; provided, however, that where conditions justify him in so doing he may grant a reasonable length of time for making repairs or for putting such mine in proper condition; and provided further, that where any stops or cessation of work are enforced, such inspector or deputy or deputies shall have the power thereafter to allow such mine or part of a mine to be reopened when the dangerous or unlawful conditions therein existing are removed or remedied so that they no longer exist.*

Powers and duties of inspector.

Inspector may stop working of mine, when.

Every person, company or corporation who wilfully obstructs the state inspector of coal mines or his deputy or deputies in the execution of his or their duties under this act, and every owner, agent, officer, lessee or manager of a coal mine who refuses or neglects to furnish to the said inspector or his deputy or deputies the means, information, or opportunity necessary for making any entry, inspection,

Obstruction of inspector, penalty.

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examination or inquiry of or relating to any coal mine in this state, as herein provided for, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than two hundred dollars ($200.00) and not exceeding five hundred dollars ($500.00).

The owner, *lessee*, operator, superintendent, *or mining boss* of such mine is hereby required to furnish the means necessary for such entry, inspection, examination, inquiry, and exit. It shall also be the duty of the said coal mine inspector to carefully examine all the coal mines in operation in this state at least every three (3) months, and oftener if necessary, to see that every precaution is taken to insure the safety of all the workmen that may be engaged in said coal mine. The said inspector shall make a record of the visit, noting the time and the material circumstances of the inspection. In the event the inspector *has* in his possession any complaint in writing to the effect that the mining code is being violated, he shall notify the *employer and the* employees that he is about to make such inspection. *The employees shall have the right, when they so desire, to appoint a competent employee to represent them and accompany the state coal mine inspector in making any official mine inspection.* The inspector may *also,* if he so desires, request some employee to accompany him *in making his inspections.* The owner or operator shall at all times have the right to personally accompany the inspector while inspecting his property, or to designate some one to so accompany him."

Duty of mine owner and others.

Duty of inspector.

Right of employees to representation.

Section 2. That Section 3452 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Sec. 3452, R. C. 1935, amended.

"Section 3452. **Instruments to Be Furnished to Inspector.** For the more efficient discharge of the duties herein imposed upon him, the said state coal mine inspector shall be furnished, at the expense of the state, with an anemometer, a safety-lamp, *methane detector, self-rescuer, carbon monoxide detector,* and whatever other instruments of other appliances may be necessary in order to carry into effect the provisions of the acts regulating coal mines."

Instruments to be furnished to inspector.

Section 3. That Section 3453 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Sec. 3453, R. C. 1935, amended.

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"Section 3453. **Inspector to Post Statement of Mine at Entrance.** The State Coal Mine Inspector shall post in some conspicuous place at the top of each mine visited and inspected by him a plain statement of the conditions of such mine, showing what, in his judgment, is necessary for the better protection of the lives and health of persons employed in such mine; such statement, *signed by the inspector*, shall give the date of inspection, *the number of cubic feet of air per minute in circulation at the last open cross-cut of each and every entry, and the last open cross-cut in each and every active room or working place, and such other information as he shall deem necessary. Where a local union has jurisdiction over the mine inspected, the inspector will mail a copy of said statement of conditions to the secretary within one week after making such inspection.* He shall also post a notice at the landing used by the men, stating what number of men may be permitted to ride on the cage, car or cars at one time, and at what rate of speed men may be hoisted and lowered on the cage, car or cars in accordance as hereinafter provided for in this act. He must observe especially that the code of signals provided in the act of regulating coal mines between engineer and top men and bottom men is conspicuously posted for the information of all employees."

Inspector to post statement of mine at entrance.

Section 4. That Section 3501 of the Revised Codes of Montana, 1935, as amended by Chapter 146, Session Laws of 1937, and Chapter 145 of the Session Laws of 1939, be, and the same is hereby amended to read as follows:

Sec. 3501, R. C. 1935, as amended, further amended.

"Section 3501. **Ventilation of Mines.** The owner, operator, or superintendent of every coal mine, whether operated by shaft, slope, or drift, shall provide and hereafter maintain ample means of ventilation for the circulation of air through the main entries, cross entries, and all other working places, to an extent that will dilute, carry off, and render harmless the noxious or dangerous gases generated in the mine, affording not less than one hundred and fifty (150) cubic feet per minute for each and every person employed therein, and not less than six hundred (600) cubic feet per minute for each and every animal and mobile loading machine while in operation in the mine; but in any mine, or section of a mine, where fire-damp is generated, not less than two hundred (200) cubic feet of air per minute shall be provided for each person, or as much more as may be necessary to keep such section free from fire-

Ventilation of mines.

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damp. The quantities of air in circulation shall be ascertained with an anemometer or other efficient instrument; such measurement shall be made by the foreman or his assistants once a week at the inlet and outlet airways, and also at or near the face of each entry, and shall be recorded in the book kept for that purpose at the mine office. *On or about the first day of each month the owner, operator, or superintendent shall mail or cause to be mailed to the state coal mine inspector a true copy of the air measurements recorded in said book.* The quantity of air as provided for in this act for each person shall be conducted to each working place. *It shall be unlawful to install a booster fan or booster fans underground in any mine or mines classified as gaseous, except as provided in U. S. bureau of mines information circular 7266 revised, September, 1943, Article 15, ventilation, item 08, and in mines so classified the main haulage system shall be on the intake airway, and hereafter when any new shaft, slope or drift is to be opened whether classified as gaseous or non-gaseous, the main haulage system shall be on the intake airway.*

Air measurements, monthly report of.

Installation of booster fans underground in gaseous mines.

In rooms generating fire-damp, the volume of air required by this act shall be conducted to the face thereof by the use of brattice-cloth or other suitable means."

Rooms generating fire-damp.

Section 5. That Section 3504 of the Revised Codes of Montana, 1935, as amended by Chapter 146 of the Session Laws of 1937, be, and the same is hereby amended to read as follows:

Sec. 3504, R. C. 1935, as amended, further amended.

"Section 3504. **Cross-cuts and Brattices for Ventilation.** Cross-cuts between the entries, except where the same are within the confines of shaft bottom pillars, or are hereafter provided for, shall be made not exceeding sixty (60) feet apart, unless sufficient brattice is used to keep the air current up to the entry face, in which case they shall not exceed one hundred (100) feet apart. Where entries or rooms are being driven by entry driving machines, or any other mechanical loading device, or where local mechanical methods of ventilation are installed to furnish air to the workmen at the face, *except as provided in Section 4 of this act, pertaining to booster fans,* cross-cuts may be driven at not exceeding three hundred (300) feet apart, provided that brattice, tubing or some other device is used sufficient to give at the face twice the amount of air per man and animal provided for in section *4 of this act,* and to clear

Cross-cuts for ventilation.

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said face of powder smoke before the men are required to return to work therein. In mines or sections of a mine where no local mechanical methods of ventilation are installed, when there is a solid block on one side of a room, cross-cuts shall be made between such room and the adjacent room not to exceed sixty (60) feet apart; where there is a breast or group of rooms, a cross-cut shall be made on one side or the other of each room, except the room adjoining said block, not to exceed fifty (50) feet from the outside corner of the cross-cut to the nearest corner of the entrance of the room, and on the opposite side of the same room a cross-cut shall be made not to exceed ninety (90) feet from the outside corner of the cross-cut to the nearest corner of the entrance of the room, and thereafter cross-cuts shall be made not to exceed eighty (80) feet apart on each side of the room.

Brattices.

Brattices between permanent inlet and outlet airways shall hereafter be constructed in a substantial manner of brick, blocks, masonry, concrete, or nonperishable material. Rooms must not be worked in advance of the ventilating current."

Sec. 3507, R. C. 1935, amended.

Section 6. That Section 3507, Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Underground stables.

"Section 3507. **Underground Stables.** Where livestock is kept underground, the stables or stalls shall be separated from the main air-course by not less than twenty (20) feet of solid strata, or a solid wall of brick masonry or concrete not less than twelve (12) inches in thickness. The construction of the stable shall, as far as possible, be free from all combustible material. No hay or straw shall be taken into the mine unless same be compressed into compact bales, and only from time to time in such quantities as will be required for two (2) days' use. No greater quantity of hay or straw shall be stored in the mine or stable, and when such is taken inside the mine it shall be taken to the stable at once and placed in a separate room provided therein for the same. The stable must be so placed that the air ventilating the same is returned immediately to the main outlet air-course, and not allowed to go further into the mine to where men are working. The connections between the air-courses and the stables must be fitted with substantial doors, placed so that they can be readily reached in the

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event of fire in the stable. Where conditions prohibit the use of entirely incombustible material in the construction of the stable, the doors leading to or from the same shall be made of iron or steel plate, not less than one-quarter (¼) inch in thickness, set in masonry or concrete walls. The lights used in the stable shall be *in compliance with section 8 of this act.* All refuse and waste shall be promptly removed from the stable in the mine, and shall not be allowed to accumulate.

Stables constructed underground after the passage of this act shall be located not nearer than one hundred fifty (150) feet to any opening to the mine used as a means of ingress or egress."

Location restricted.

Section 7. That Section 3516, Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Sec. 3516, R. C. 1935, amended.

"Section 3516. **Mine Examiners and Their Duties.** A mine examiner shall be required at all coal mines generating dangerous and explosive gases.

Mine examiners at gaseous mines.

His duty shall be to visit the mine before the men are permitted to enter it, and, first, he shall see that the air current is traveling in its proper course and quantity. He shall inspect all places where men are expected to pass or to work, *within three (3) hours prior to a shift going on duty,* and observe if there are any recent fall or obstructions in rooms and roadways or accumulations of fire-damp or other unsafe conditions.

Duties of.

He shall especially examine the edges and accessible parts of recent falls and old gobs and air-courses. As evidence of such examination, he shall mark with chalk upon the face of the coal, his initial and the date of the month and year; if there is any standing gas discovered he shall leave a danger-signal across every entrance to such place.

He shall make a report on a blackboard provided on the outside of the mine, or at some other convenient place for that purpose, and arranged so that the men can inspect it while passing to their work, showing the conditions of the mine as to the presence of fire-damp, and indicating the place or places where present, if any is present, before he permits any person or persons to enter the mine. He shall complete his inspection before the time for the day-shift men to go to work, and shall personally check each miner

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or loader into the mine, advising each as to the condition of his working place, and holding back any man whose working place is in dangerous condition. He shall return to the mine with such miners or loaders thus held back, and remain there attending to the removal of any standing gas.

Examination of parts of mine not being worked.

He shall examine parts of the mine not in actual course of working and available, not less than once each three (3) days. He shall see that every part of the mine is kept free from standing gas and all old workings are properly fenced off. He shall examine the mine on idle days and Sundays, if any men are required to work in any part of it, and, if any time elapse between the day turn leaving and night turn starting, the places to be worked by night turn must be examined by him with a safety-lamp and reported safe before persons go to them. He shall make a daily record of the conditions of the mine as he has found them, in a book kept for that purpose, which shall be preserved in the office of the company, *said record to be signed by the examiner when made, countersigned by the foreman daily and by the superintendent weekly, and by the state coal mine inspector on his regular periodic visit.* No miner or loader, when advised by the mine examiner that his working place is dangerous, shall *enter such working place until* accompanied by the mine examiner."

Sec. 3517, R. C. 1935, amended.

Section 8. That Section 3517 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

"Section 3517. *Electric Lamps, Safety-Lamps and Self-Rescuers. All men entering coal mines in Montana generating explosive gases, and in mines not generating explosive gases, but in which more than five (5) men are employed on any one (1) shift shall be equipped with electric battery lamps approved by the U. S. bureau of mines, and no flame lamps shall be permitted in the mine, except for testing purposes. All lamps used for testing purposes shall bear the approval of the U. S. bureau of mines and shall be magnetically locked and the igniters shall be maintained in a serviceable condition. Mines employing five (5) men or less on any one shift may be required to comply with the above regulations at the direction of the state coal mine inspector.*

Electric lamps required, when.

Flame lamps.

The flame safety-lamps used for examining mines or which may be used in working therein shall be the property

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of the owner or operator of said mine, and shall be in charge of the agent or the owner or operator of such mine. No person shall have in his possession in any part of a mine where closed lights or locked safety-lamps or other similar devices are used any lamp key or instrument for the opening of a light or lamp. Any man working in a mine or mines classified as gaseous, shall before entering the mine be subject to search by the mine foreman or his assistants, for matches or other flame producing devices, and smoking is strictly prohibited.

Ownership of flame safety-lamps.

Miner subject to search.

In any mine or mines known to be generating explosive gases, mine foremen and others charged with the duties of examining working and idle places or territories, shall be required to carry with them at all times while underground, safety-lamps and same shall be kept lighted and in usable condition during their individual services underground.

Safety-lamps in mines generating explosive gases.

All employees working in a mine or mines, or those employees who are required to work part-time in a mine or mines shall wear a self-rescuer furnished by the company without charge. The self-rescuer shall be the property of the owner or operator of said mine or mines, and shall be returned to the owner or operator when the employee severs his employment with the company.

Self-rescuers.

Persons violating any part of the above act shall be guilty of a misdemeanor and punished accordingly.''

Penalty.

Section 9. That Section 3518, Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Sec. 3518, R. C. 1935, amended.

''Section 3518. **Only Safety-Lamps to Be Used.** In every working approaching any place where there is likely to be an accumulation of explosive gases, or in any working where danger is imminent from explosive gases, no light or fire other than *electric battery lamps and* locked safety-lamps *approved by the U. S. bureau of mines* shall be allowed or used.''

Only safety lamps to be used.

Section 10. That Section 3521 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Sec. 3521, R. C. 1935, amended.

''Section 3521. **Storing of Explosives in Mines.** *It shall be unlawful for any person or company to store in any mine or mines more powder than is normally sufficient to last*

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Storing of explosives in mines.

one (1) day unless otherwise authorized by the state coal mine inspector. All explosives taken into the mine shall be stored in substantial boxes constructed of non-conducting material provided with locks and kept locked when not in use. Detonators must be kept in a separate box or a separate compartment in the same box, and the box used only for storage of the above material. The box shall be kept at least twenty-five (25) feet from the tracks or power lines.

Person working for himself.

No person when working for himself shall have at any time more than twenty-five (25) pounds of powder in the mine nor more than five (5) pounds of high explosives. Every person, *when working for himself,* who has powder or other explosives in a mine shall *store them in a manner as provided above in this act."*

Sec. 3522, R. C. 1935, amended.

Section 11. That Section 3522 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Manner of handling explosives.

"Section 3522. **Manner of Handling Explosives.** *It shall be unlawful for any owner, operator, superintendent, foreman or any employee of any coal mine to transport powder on haulageways either by rope, motor or horse in any manner other than in a non-conductive safety-built car, approved by the state coal mine inspector. When the explosives car is transported by trolley locomotive at least two (2) cars shall be placed between the locomotive and the explosives car and an insulated coupling shall be used between the explosives car and the first car.*

Wooden mallets and hardwood wedges shall be used to open explosives cases. Whenever a *person* is about to open a box or *container of* powder or other explosives and while handling the same *in a mine employing five (5) men or less on any one shift when electric battery lamps are not used,* he shall place and keep his lamp at least five (5) feet distant from such explosives, and in such position that the air current cannot carry sparks to it, and no person shall approach nearer than five (5) feet to any box *or receptacle* containing powder or other explosives with a lighted lamp, lighted pipe, or other thing containing fire.

Explosives shall be carried in canvas or similar bags or in an insulated container to the working faces.

Explosives shall not be brought to the face of any workings while electrical equipment is operating in the place."

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Section 12. That Section 3523 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Sec. 3523, R. C. 1935, amended.

"Section 3523. *Tamping Tools. No person shall, whether working for himself or in the employ of any person, company, or corporation, while loading or charging a hole with any explosive, use or employ any steel, iron or other metal tamping bar, nor shall any mine manager, superintendent, foreman or shift boss, or other person having the management or direction of mine labor, allow or permit the use of such bar by any person under his management or direction, and no instrument other than an all wood tamping stick shall be used for tamping any permissible or high explosive charge.*

Tamping tools.

When pellet powder is used as provided in section 13 of this act, a tamping bar tipped with at least five (5) inches of copper may be used."

Section 13. That Section 3524 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Sec. 3524, R. C. 1935, amended.

"Section 3524. **System of Blasting.** *Shooting or blasting on shift shall only be permitted when permissible powder is used and fired by means of a permissible blasting unit, and then in gaseous mines, only after immediate inspection has been made and the place found free of gas and to be safe. In gaseous mines, tests for gas should be made with a flame safety-lamp before and after each round of shots, and provided further, that there shall be* efficient means employed to carry the powder smoke as directly and as quickly as possible to the return airway *and also that no person or persons shall be* required to work in a smoky atmosphere, *and* that all persons are out of danger from probable effects of such shots *by being notified that shots are to be fired.*

System of blasting.

It shall be unlawful to use black powder in any coal mine except in pellet form.

When a fuse is used and a shot misses fire, no person shall return *to such working place where shot misses fire* until one (1) hour for each foot of fuse used shall have elapsed.

When more than one (1) shot is to be fired at the same time with fuse, in the same working place, different lengths

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of fuse shall be used so as to prevent any possibility of the shots going off simultaneously.

System of blasting.

The person assigned to the firing of shots shall immediately after the completion of his work report in writing to the proper official any shots not fired, their location and reason therefor. He shall similarly report any missed shots. He shall not drill out a missed fired hole for the purpose of removing powder from such hole, but shall drill and tamp another hole not less than twenty-four (24) inches distant from the missed fired shot and parallel to it.

No hole shall be drilled to a greater depth than the cut or shearing.

Under no circumstances shall any shot or shots be fired in a place containing gas, and shot or shots must not be fired in such place until same has been cleared of gas through approved methods of ventilation.

When firing shots in close proximity to other workmen on rib or in cross-cut driven for air or other purposes, he or they, firing such shots, shall notify in person or by signals the workmen in adjoining rooms or other place or entry.

Electric power shall be cut off equipment at or near a face before explosives are taken to such face, during charging, and between charging and firing of shots.

Explosives shall be suitably stemmed with clay or other incombustible material, preferably to the collar of the hole; in no instance shall the stemming be less than two (2) feet in length, unless the hole is stemmed to the collar, but it shall not be obligatory to tamp holes where any blasting device is used which has been approved or may hereafter be approved by the United States bureau of mines and in the use of which the bureau of mines does not recommend tamping. No employees shall be less than one hundred (100) feet from the face being shot at the time of shooting and the employee shall be so situated that at least one (1) right angle shall be between him and such face.

When any person is engaged in the work of firing shots, the shotfiring cable must be disconnected from battery, and cable leads must be short circuited at battery and before connection is made to detonating cap at face, and all employees other than the one (1) connecting cable to cap at face are forbidden to handle battery while the work of

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firing shots is being carried on. The cable connecting battery to detonating cap or caps must not be less than one hundred (100) feet in length at all times.

At all coal mines where the coal is loaded by hand by individual miners or loaders the firing of shots shall be restricted to a specific time at the end of each shift, except that in entries, slants and room necks, when necessary, one (1) snubbing shot may be fired in each at the middle of the shift. No miner shall fire a shot until the time appointed for him to do so, and then only in such rotation as designated by the proper authority, *and then only under the conditions as set forth in this act.* After each blast, he shall exercise great care in examining the roof and coal and shall secure them safely before beginning to load coal.

No person or persons shall order, command or induce by threat or otherwise, any shot-firer or person to fire any unlawful shot.

Any wilful neglect, refusal or failure to do the *things required to be done in the above sections, clause or provision on the part of person or persons herein required to do them, or any violation of the provisions or requirements thereof, or any attempt to obstruct or interfere with any person in the discharge of the duties herein imposed upon him, or any refusal to comply with the provisions of this section shall be deemed a misdemeanor punishable by a fine of not less than one hundred dollars ($100.00) and not to exceed two hundred dollars ($200.00) or by imprisonment in the county jail for a period not exceeding three (3) months, or both, at the discretion of the court."*

Penalty.

Section 14. That Section 3525 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Sec. 3525, R. C. 1935, amended.

"Section 3525. **Care of Working Places.** Each miner shall examine his working place upon entering the same, and shall not commence to mine or load until it is made safe. He shall be very careful to keep his working place in safe condition at all times.

Care of working places.

When draw slate is over the coal, the miner shall not go underneath the draw slate until it is made safe from falling by securely posting it, and he shall not remove the posts until the coal is removed and he is ready to take down the

Draw slate over coal.

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draw slate. He shall not place in the gob or refuse pile any fine coal or coal dust but shall load same into cars. He shall be very careful to keep his working place safe at all times.

Should he at any time find his place becoming dangerous from any cause or condition, to such an extent that he is unable to take care of the same personally, he shall at once cease work and notify the mine foreman or his assistant, as provided for hereinbefore in this act, of such danger, and upon leaving such place he shall place some plain warning at the entrance thereof to *warn* others from entering into the said danger, and he shall not return to his place until ordered to do so by the mine foreman or his assistant. Each miner, or other person employed in a mine, shall securely prop the roof of the working place therein under his control, and shall obey any order or orders given by the superintendent or mine foreman relating to the width of his working place or safety of the same. Such miner or other person shall not be held to have violated the provisions of this section, if the owner, leasee, agent, superintendent, or mine foreman fail to supply the necessary props, caps, timber, or necessary material as provided for in this act.

To give warning of danger.

Each miner or other person shall avoid waste of props, caps, timber, or other material. When he has props, caps, timber, or other material unsuited for his purpose, he shall not cover them up or destroy them, but shall place same near the track where they can be readily seen."

Sec. 3526, R. C. 1935, amended.

Section 15. That Section 3526 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

"Section 3526. **Duties of Machine-Men.** Machine runners and helpers shall use care while operating mining machines. They shall not operate a machine unless the shields are in place, and shall warn all persons not engaged in the operating of a machine of the danger in going near a machine while in operation, and shall not permit such persons to remain near the machine while in operation. They shall examine the roof of the working place and see that it is safe before starting to operate the machinery. They shall not move the machine while the cutter-chain is in motion.

Duties of machine men.

When connecting the power cable to electric wires, they shall make the negative or grounded connections before

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connecting to the positive, and, when disconnecting the power cable, shall disconnect from the positive line before disconnecting the negative, or grounded. When positive feed wires extend into rooms, they shall connect such wires to the positive wire on the entry before connecting the power cable, and as soon as the power cable is disconnected, shall disconnect such wire from the wire on the entry. They shall use care that the cable does not come in contact with metallic rails of the track, and shall avoid, where possible, leaving the cable in water. If any machine-men remove props which have been placed by the miner for the security of the roof, they shall reset such props as promptly as possible.

Connecting power cable to electric wires.

When the state coal mine inspector finds that in the cutting of coal in any place or places in any mine or mines that the coal dust resulting from said cutting is apparent in such quantities as requiring the allaying of said coal dust, he shall order the owner, operator, superintendent or foreman of the mine to have the cutting machines equipped with a water tank and so connected to the cutter bar that water will be provided on the cutter chain while coal is being cut. It shall be the duty of machine-men while operating a cutting machine so equipped to make certain that ample water is being applied to the cutter chain while cutting coal in a place or places where it is necessary to allay the dust."

Allaying of coal dust.

Section 16. That Section 3527 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Sec. 3527, R. C. 1935, amended.

"Section 3527. **Duties of Motormen, Trip Riders, and Drivers.** Motormen and trip riders shall use care in handling the motors and cars, and shall see that signals or markers, as provided for, are used as provided, and shall be governed by the speed provided for in this act in handling cars. They shall not run the motors with the trolley ahead of the motors, except in case where they cannot do the alternative, and then only at a speed of two (2) miles an hour. They shall warn persons forbidden to ride on the motors or cars, and shall not permit such persons to ride on motors or cars contrary to the provisions of this act.

Duties of motormen and trip riders.

Each locomotive employed in underground haulage in a coal mine shall be equipped with an efficient gong and with an efficient headlight, both of which shall be maintained in good operating condition. Motorman must use the head-

Equipment of locomotives underground.

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light and gong in a way to effectively warn employees in the mine of danger. When mine cars are pushed by a locomotive underground, an efficient trip light, maintained in working order and kept lighted, shall be carried on the front end of the forward car in a position where it can be plainly seen by the employees ahead of same. When loaded or empty mine car trips are being pulled by locomotives through entries or haulage-ways, an efficient trip light, maintained in working order and kept lighted, shall be carried on the rear end of the last car at all times except when trip rider is riding the rear end of the last car. A marker board, with an area of not less than one (1) square foot, painted white and kept clean for visibility, may be substituted for the trip light on the rear car of trips which are being pulled by locomotives; provided, however, that this section shall not apply to the gathering of cars or to any hauling of cars in a mine except haulage on main entries.

Drivers shall use care in handling cars, especially when going down extreme grades and at junction points.

Motormen, trip riders, and drivers in charge of hauling trips, passing through doors used as a means of directing the ventilation, shall see that such doors are closed promptly after the trip passes through."

Sec. 3528, R. C. 1935, amended.

Section 17. That Section 3528 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Duties of other employees.

"Section 3528. **Duties of Other Employees.** No person shall enter a mine generating fire-damp so as to be detected by a safety-lamp until the mine examiners make a report on the blackboard for that purpose, as hereinbefore provided for in this act.

No person, unless accompanied by the mine examiner, shall go beyond a danger-signal until all standing gas discovered has been removed or diluted and rendered harmless by a current of air. Any person, being ordered to withdraw by the mine foreman or mine examiner from the mine on account of the interruption of the ventilation, shall not reenter the mine until given permission to do so by the mine foreman.

No person other than the mine examiner shall remove any caution board or danger-signal placed at the entrance

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to any working place, or at the entrance to any old workings in a mine.

No person shall erase or change a mark of reference or monument made in connection with a measurement; change marks or dates or any caution board, or erase or change the dates at room or entry face, when made by the mine examiner, *or take for his use a life check not issued to him as provided for in section 18 of this act, or* change the checks on cars, wrongfully check a car, or do any act with intent to defraud. No person shall take *anything* containing fire, except as provided for in *section 8 of* this act, into any underground stable or barn.

No person shall place refuse in or obstruct any airway or break-through used as an airway. No workman or other person shall injure a water-gauge, barometer, air-course, brattice equipment, machinery, or livestock; obstruct or throw open any airway; handle or disturb any part of the machinery of the hoisting-engine of a mine, open a door of a mine and neglect to close it; endanger the miners or those working therein; disobey an order given in pursuance of law, or do a wilful act whereby the lives and health of persons working therein or the security of a mine or machinery connected therewith may be endangered."

Sec. 3534, R. C. 1935, amended.

Section 18. That Section 3534 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

"Section 3534. *Checking Men in and Out of Mines and the* **Rights of Men to Come Out** *of Mines. The owner, operator, or superintendent of every coal mine, whether operated by shaft, slope or drift, shall provide and hereafter maintain a checking system of the employees. Each employee shall be issued a life check at the beginning of a shift, and the check shall be returned to the check-house and placed on the checkboard at the end of the shift. An accurate record shall be kept of each check as it is issued.*

Checking men in and out of mines.

Whenever men who have finished their day's work, or who have been prevented from further work for any cause, shall come to the bottom of any shaft to be hoisted out, a cage shall be given them for that purpose, unless there is an available exit by a slope or stairway in an escapement shaft, and providing there is no coal at the bottom to be hoisted. Whenever the designated number of persons for a

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cage load shall arrive at the bottom of the shaft in which persons are regularly hoisted or lowered, they shall be furnished with an empty cage and be hoisted."

Sec. 3540, R. C. 1935, amended.

Section 19. That Section 3540 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

"Section 3540. **Coroner's Inquest.** If any person is killed by any explosion or other accident, the operator must also notify the coroner of the county, his authorized deputy, or, in the absence of either or in the inability of either to act, any justice of the peace of said county, for the purpose of holding an inquest concerning the cause of such death. At such inquest the state coal mine inspector, his deputy or authorized representative, shall offer such testimony as he may be possessed of, and he may question or cross-question any witness appearing in the case; and the owner, agent, or manager of the coal mine, either in person or by counsel, *and the employees either by their chosen representative or by counsel,* shall also be at liberty to examine or cross-examine any witness at any such inquest.

Coroner's inquest.

Any person having personal interest in or employed in the management of the mine in which the accident occurred shall not be qualified to serve on the jury impaneled on the inquest; and it shall be the duty of the constable or other officer not to summon any person disqualified under this provision, and it shall be the duty of the coroner not to allow any such to be sworn or sit on the jury; nevertheless, when possible, one-third (1/3) of the jurymen shall be miners.

Jurors.

Unless the state coal mine inspector, or some person authorized by him, is present at an inquest held upon the body of any person, where death may have been caused by any such accident, the coroner shall adjourn the same, and, by written notice or telegram delivered or sent to the state coal mine inspector, at least two (2) days before holding the adjourned inquest, give notice of the time and place of the holding of the same. Before such adjournment the coroner, his authorized deputy, or the justice of the peace, may take evidence to identify the body and order the interment thereof."

Notice of inquest to be given inspector.

Sec. 3541, R. C. 1935, amended.

Section 20. That Section 3541, Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

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"Section 3541. **Code of Signals at Coal Mines.** At any coal mine operated by shaft more than one hundred (100) feet in depth, or by *rope-haulage,* slope, the manner of signaling to and from the bottom man, the top man, the rope-riders, and the engineer, shall consist of wires, or a tube or tubes, through which signals shall be communicated by electricity, compressed air, or other pneumatic devices.

Code of signals at coal mines.

The following signals are provided for use at coal mines where signals are required:

'One (1) ring or whistle—One (1) ring or whistle shall signify to hoist coal or the empty cars or cage, and also to stop either when in motion.

Two (2) rings or whistles—Two (2) rings or whistles shall signify to lower cage or car.

Three (3) rings or whistles—Three (3) rings or whistles shall signify that men are coming up; when return signal is received from engineer, either by bell, whistle, or slight movement of the trip, men will get on cage or cars and the cager or rope-rider shall ring or whistle "one" (1) to start.

Four (4) rings or whistles—Four (4) rings or whistles shall signify to hoist slowly, implying danger.

Five (5) rings or whistles—Five (5) rings or whistles shall signify accident in the mine and call for stretchers.

From top to bottom—One (1) ring or whistle shall signify—All ready, get on cage or cars.

From top to bottom—Two (2) rings or whistles shall signify—To send away empty cage or cars.

Provided, that the management of any mine may, with the consent of the state coal mine inspector, add to or change this code of signals at their discretion, for the purpose of increasing its efficiency or of promoting the safety of the men in said mine, but, whatever code may be established and in use at any mine, it must be approved by the state coal mine inspector, and shall be conspicuously posted at the top and at the bottom of every shaft or slope, and at the landing-place on all rope-haulage systems, also in all engine-rooms, for the information and instruction of all persons."

Changes in signals to be approved by inspector.

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Sec. 3545, R. C. 1935, amended.

Section 21. That Section 3545 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

"Section 3545. **Penalties.** If any operator, company, or corporation neglects to comply with or violates the requirements of this act, either in part or in whole, or if any owner, operator, manager, superintendent, mine foreman, or his assistant coerces, intimidates, or causes any employee to do the things prohibited, or causes them to do as provided against in this act, such operator, company, corporation, manager, superintendent, mine foreman or his assistant shall be liable to a penalty of *one hundred dollars ($100.00)* for each and every day during which the offense continues; *except that in those sections of this act that provide a penalty for violation of any part thereof, those penalties as set forth in the section shall govern;* proceedings to be instituted in any court of competent jurisdiction in the county in which such offense is committed.

Penalties.

Any employee engaged at work in or around any coal mine in the State of Montana, who violates any part of this act, shall for each offense be liable to a penalty not exceeding *twenty*-five dollars *($25.00),* or in default of payment shall be imprisoned in the county jail for a period of time not exceeding ten (10) days, proceedings to be instituted in any court of competent jurisdiction in the county in which such offense is committed."

Repealing clause.

Section 22. That Sections 3456, 3519 and 3536 of the Revised Codes of Montana, 1935, relating specifically to the refusal of mine operator to allow examination or to furnish facilities for examination; relating to keys for safety-lamps; and relating to oils to be used in coal mines, and all other acts and parts of acts in conflict herewith are hereby repealed.

Approved February 15, 1945.

CHAPTER 39

An Act Known As "State Highway Treasury Anticipation Debenture Act of 1945" and Authorizing and Directing the Issuance of Debentures of the State of Montana in the Principal Sum of Twelve Million Dollars, At Such

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Times Within a Period of Ten Years, and in Such Amounts Up to the Said Principal Sum As Shall From Time to Time Be Required for the Purposes Hereinafter Set Forth, and Providing for the Sale Thereof for the Use of the State Highway Fund for the Purpose of Matching Federal Highway Grants, and Assuring the Ability of the State of Montana to Secure Any Moneys Made Available by Acts of Congress in Reference to Highways, for Carrying On a Postwar Highway Program Calculated to Bring the Highway System of the State of Montana Up to the Established Standards of the Federal Highway Act, for Other Highway Purposes, and for the Payment of State Highway Treasury Anticipation Debentures of the State of Montana Now Outstanding; Providing for the Repeal of the License Tax On Dealers or Distributors of Gasoline Provided for in Initiative No. 41 Entitled "State Highway Treasury Anticipation Debenture Act of 1938" As Amended by Chapter 30 of the Twenty-sixth Legislative Assembly of the State of Montana, and All Gallonage Taxes On Dealers or Distributors of Gasoline Imposed by Prior Laws; Providing for the Levying of a License Tax of Five Cents a Gallon to Be Paid by Dealers in Gasoline and Anticipating the Revenues Therefrom; Prescribing the Form, Terms and Conditions of Said Debentures, the Rate of Interest Thereon Not Exceeding Four Percent Per Annum, and the Dates of the Maturity of Said Debentures; Prescribing the Conditions Under Which the Sale of Such Debentures May Be Made, and the Use of the Funds to Be Derived from the Sale Thereof; Providing for the Repayment of Both Principal and Interest of Such Debentures, and for the Pledging and Setting Aside in the State Highway Treasury Anticipation Debenture Interest and Redemption Fund Herein Created of a Sufficient Amount of Said License Tax On Dealers in Gasoline to Pay Said Debentures and Interest; Providing for the Creation of a Liability Binding the State of Montana Not to Reduce the License Tax on Dealers in Gasoline Until After the Accrual of Sufficient Moneys to Pay Said Debentures and Interest; and Providing That No Part of the Proceeds of the License Tax Mentioned Shall Be Diverted to Any Purposes Other Than As Provided in This Act.

Title of act.

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Be it enacted by the Legislative Assembly of the State of Montana:

Title of act.

Section 1. This act shall be known and designated as "state highway treasury anticipation debenture act of 1945."

Purposes.

Section 2. That for the purpose of anticipating the revenue to accrue in the state highway fund of the State of Montana, matching federal highway grants, assuring the ability of the State of Montana to secure any funds or moneys allocated to the State of Montana and made available to it by acts of congress of the United States in reference to the construction, betterment and maintenance of highways, for carrying on a postwar highway program calculated to bring the highway system of the State of Montana up to the established standards of the federal highway act, for other highway purposes, and for the redemption and payment in the year 1945 or the year 1946 of all state highway treasury anticipation debentures now outstanding, a series of loans for the use and benefit of, and in the name of, the State of Montana, in the aggregate principal sum of twelve million ($12,000,000.00) dollars, is hereby authorized and directed, the proceeds of which loans shall be paid into the state treasury of the State of Montana, and placed in the state highway fund, to be used for the purpose herein provided.

Series of loans aggregating $12,000,000 authorized.

Authority of state highway commission.

Section 3. The state highway commission of the State of Montana is hereby authorized and directed to issue and sell at such time or times as it shall designate, but not later than the 31st day of December in the year 1946, sufficient state highway treasury anticipation debentures provided for by this act so that the proceeds thereof, when added to the balance in the state highway treasury anticipation debenture interest and redemption fund of 1938, shall be sufficient to redeem all outstanding state highway treasury anticipation debentures issued under the authority of initiative measure No. 41 as amended by chapter 30 of the laws of the twenty-sixth legislative assembly of Montana for the year 1939. After the redemption and payment of all outstanding state highway treasury anticipation debentures issued under the authority of initiative measure No. 41 as amended, the state highway commission of the State of Montana, acting by resolution adopted by vote of a majority of its members, is hereby authorized and directed to issue and sell such state highway treasury anticipation

For redemption certain outstanding debentures.

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debentures of the State of Montana authorized by this act, at such times, within a period of ten years from and after the approval of this act, and in such amounts as the said state highway commission shall from time to time determine necessary for the purposes herein provided. The total amount of such debentures so issued and sold shall not exceed twelve million ($12,000,000.00) dollars.

Limitations as to issuance of debentures.

Said debentures provided for in this act shall bear such rate or rates of interest, not to exceed, however, the rate of four per centum (4%) per annum, payable semi-annually, as such highway commission shall by its resolution direct, and shall be payable at the office of the state treasurer of the State of Montana at Helena, Montana, or, at the option of the holders thereof, at the office of the fiscal agent of the State of Montana, in the borough of Manhattan, city and state of New York, both as to interest and principal, and shall be executed in the name of the State of Montana by the governor and state treasurer under the great seal of the state, and shall be attested by the secretary of state.

Rate of interest.

Where payable.

How executed.

The semi-annual installments of interest shall be evidenced by interest coupons attached to said debentures, which shall be executed by the engraved or lithographed facsimile signatures of the governor and the secretary of state.

Interest coupons.

The principal of, and interest upon, such debentures shall be payable in lawful money of the United States of America, and all such debentures issued pursuant to the provisions of this act shall be fully negotiable within the meaning of and for all the purposes of the negotiable instruments law as said law is now or may hereafter be in force in the State of Montana.

Negotiability.

All of such debentures so issued shall mature at the expiration of ten (10) years from and after the date thereof, and shall be callable at par plus accrued interest for redemption prior to maturity on any interest payment date on or after the expiration of five (5) years from the respective dates thereof, at the option of the state treasurer of the State of Montana, in the manner provided in the form of debenture hereinafter set forth.

Maturity.

Said debentures and coupons shall be in substantially the following form:

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Number..... $.....

United States of America
State of Montana
State Highway Treasury Anticipation Debenture
(State Highway Fund)

Form of debenture.

For value received the State of Monatna acknowledges itself to owe and promises to pay to bearer, or if this debenture be registered as to principal, then to the registered holder hereof, from the state highway fund of the State of Montana, the sum of..... .....dollars ($.....) on the.....day of....., 19....., subject to the right of prior redemption as hereinafter set out, with interest hereon from the date hereof until paid at the rate of.....per centum (.....%) per annum, payable....., and semi-annually thereafter on the .....day of..... ..... and of..... of each year, upon presentation and surrender of the annexed interest coupons as they severally become due. Both principal hereof and interest hereon are hereby made payable in lawful money of the United States of America, at the office of the state treasurer of the State of Montana, Helena, Montana, or, at the option of the holder, at the office of the fiscal agent of the State of Montana, in the borough of Manhattan, city and state of New York.

This debenture is one of a series of debentures of like date, tenor and effect aggregating the principal sum of .....dollars ($.....).

The principal of and interest upon all debentures of this series are entitled to payment at maturity in the order of presentation of debentures and coupons at the office of the state treasurer of the State of Montana or at the office of the fiscal agent of said state in the borough of Manhattan, city and state of New York, but are otherwise entitled to no priority or preference the one over the other. Said debentures are issued in pursuance of and subject to the terms and provisions of the state highway treasury anticipation debenture act of 1945, and this debenture and all other debentures of this series and of other series issued or to be issued under the terms and provisions of said act, are secured by the moneys derived from the license tax of five (5c) cents per gallon of gasoline provided for in said act and not otherwise.

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The state treasurer of the State of Montana reserves the right to call and redeem this debenture prior to maturity at par plus accrued interest, on....., or on any interest payment date thereafter, upon notice specifying the number of the debenture and date of redemption given by registered mail addressed to the registered owner, if this debenture shall have been registered and the last registration thereof shall have been in the name of an owner, at the address of such owner as shown on the registry books of the state treasurer; if this debenture shall not have been registered, or if registered and the last registration thereof shall have been to bearer, then such notice shall be published once each week for at least two (2) weeks, in a newspaper of general circulation printed and published in the city of New York, New York, and in a newspaper of general circulation printed and published in the city of Helena, Montana, and shall be filed at the places of payment of principal and interest. The mailing of such notice, if it be mailed, shall be at least thirty (30) days preceding such redemption date. The first publication of such notice, if it be published, and the filing of such notice shall be at least thirty (30) days prior to such redemption date. When such debentures shall have been called for redemption and payment made or provided for, interest thereon shall cease from and after the date of redemption specified.

Form of debenture.

It is hereby certified, recited and declared that all matters, acts, conditions and things required by law to make this debenture a valid, outstanding and binding obligation against the state highway fund of the State of Montana have happened and have been done and performed, and the State of Montana hereby pledges its faith and credit that the license tax of five (5c) cents per gallon of gasoline provided in the act authorizing the issuance hereof shall not be reduced so long as this debenture or any of the debentures of this series shall remain outstanding and unpaid.

Certification.

This debenture is subject to registration as to principal in the name of the owner on the registry books of the state treasurer, such registration to be evidenced by a notation of said treasurer on the back hereof, and on said books, and after such registration no transfer hereof except such as is noted hereon and upon such books shall be valid unless the last registration shall have been to bearer, provided that such registration shall not affect the negotiability of the interest coupons by delivery merely.

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In witness whereof, and pursuant to the authority vested in them and in each of them, and under and by direction of the aforesaid act, the governor and the state treasurer of the State of Montana have hereunto affixed their and each of their official signatures, and the secretary of state of the State of Montana has attested the same by his official signature and the great seal of the State of Montana at Helena, the capital of said state, this.....day of.....A. D., 19.....

.....
Governor of the State of Montana.

.....
State Treasurer of the State of Montana.

Attest:

.....
Secretary of State of the State of Montana.

(Form of Coupon)

Form of coupon.

On the .....day of....., 19....., the State of Montana promises to pay to bearer, unless the debenture to which this coupon is attached shall have been called for prior payment as therein provided, and payment made or provided for, at the office of the state treasurer of the State of Montana, at Helena, Montana, or at the option of the holder, at the office of the fiscal agent of the State of Montana, in the borough of Manhattan, city and state of New York, the sum of.....dollars ($.....) in lawful money of the United States of America, from the state highway fund of the State of Montana, for interest then due on its state highway treasury anticipation debenture dated....., 19....., and numbered.....

.....
Governor of the State of Montana.

Attest:

.....
Secretary of State of the State of Montana.

Form of registration certificate.

This debenture registered in my office this.....day of.....A. D., 19.....

.....
State Treasurer of the State of Montana.

Name of Registered Owner	Address	Date of Registration	Signature of State Treasurer
.....	.....	.....	.....
.....	.....	.....	.....

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Section 4. All of said state highway treasury anticipation debentures shall bear date on the date they are actually issued, and shall be issued and due and payable as provided in Section 2 of this act. The principal of and interest upon said debentures shall be entitled to payment in the order of their presentation at maturity unless sooner called and paid as provided for in Section 2 of this act, otherwise without preference or priority one over the other.

Date of debentures.

Provisions as to payment.

Section 5. The issue and sale of said debentures shall constitute an irrevocable contract between the State of Montana and the legal owner of any of said debentures or coupons attached thereto that the license tax of five (5c) cents a gallon of gasoline on dealers as provided in this act shall not be reduced nor any part thereof diverted to any other purposes than those provided herein, and in Section 2381.22 of the Revised Codes of Montana 1935 and Section 2396.4 of the Revised Codes of Montana 1935, as heretofore amended so long as any of said debentures or said coupons remain outstanding and unpaid, and the State of Montana will cause such license taxes to be promptly collected and after the redemption and payment of all outstanding state highway treasury anticipation debentures issued under the authority of initiative measure No. 41 as amended, and after the payment of drawbacks or refunds, pursuant to the provisions of Section 2381.22 of the Revised Codes of Montana 1935, and Section 2396.4 of the Revised Codes of Montana 1935, as amended by chapter 96 of the laws of the twenty-fifth legislative assembly of the State of Montana 1937, and by chapter 67 of the laws of the twenty-sixth legislative assembly of the State of Montana 1939, the state treasurer shall set aside monthly from the proceeds of said license tax, and pay into a fund to be known as the "state highway treasury anticipation debenture interest and redemption fund of 1945," which is hereby created as a separate and distinct fund of the State of Montana, an amount of money collected sufficient for the payment of the interest upon said debentures as the same matures, and an amount sufficient to create an adequate sinking fund for the prompt payment of the principal amount of all such debentures at the maturity of each thereof, and the interest accrued thereon; provided further that any funds in said state highway treasury anticipation debenture interest and redemption fund which have been accumulated in said fund to pay the principal of said debentures may, on authoriza-

Contract between state and owners of debentures.

Pledge of gasoline license tax for special fund.

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tion by the state board of examiners, be expended by the state treasurer for the purchase of said debentures or any thereof at any time prior to their maturity but at no more than their par value. The pledge of said license tax of five (5c) cents a gallon of gasoline on dealers as herein provided, shall be irrepealable until all of said debentures and the interest accrued thereon shall have been fully paid, and all of said debentures and the interest thereon shall be paid solely from the proceeds of said tax collected; provided that nothing in this act shall prevent the reduction of such license tax when sufficient moneys to pay the principal of and interest accrued and to accrue upon all of said debentures have been set aside in said state highway treasury anticipation debenture interest and redemption fund of 1945.

Payment of debentures solely from proceeds of said tax.

All moneys in said fund shall be retained by the state treasurer as a fund separate and apart from all other state funds, and shall be used exclusively for the payment of the principal of and interest upon the debentures issued pursuant to this act, and for the purchase of said debentures.

Duty of state treasurer.

Section 6. The state highway treasury anticipation debentures herein provided for shall be sold by the state treasurer and the state highway commission to the highest or best bidders therefor as hereinafter provided, and at such times and in such amounts, subject to the limitations herein provided, as may be authorized by said state highway commission by resolution to be entered of record in the minutes of their proceedings.

Sale of debentures.

Immediately upon the passage or adoption by the said state highway commission of such resolution providing for the issuance and sale of any of said debentures, a certified copy of said resolution shall be delivered to the state treasurer who, immediately upon receipt of such copy, shall advertise the time and place of sale by notice published once each week for four (4) consecutive weeks in at least one (1) newspaper of general circulation published in the city of Helena, Montana, and by one (1) publication in one (1) newspaper of general circulation published in the city of New York, state of New York. The first publication of such notice shall be made not less than thirty (30) days next preceding the date of sale. Such notice shall state that such sale will be made at the office of the state treasurer of the State of Montana, and shall specify the time of

Publication of notice.

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such sale. Such notice shall further state the amount of such debentures to be sold, and that the denominations thereof will be made to suit the purchaser, and shall further state that said debentures shall bear interest at a rate not to exceed four percent (4%) per annum, and that sealed bids will be received therefor.

Opening of bids.

At the time and place stated in said notice, the state treasurer and the state highway commission shall open the bids in public, and may award said debentures to the bidder or bidders offering to pay the highest price therefor, or offering to purchase said debentures at par and accrued interest at the least rate of interest. The state treasurer and the state highway commission shall have the right to refuse any and all bids, and they shall require, as security for compliance with the terms of each bid, the deposit of a certified check equal to two percent (2%) of the amount of the bid, drawn on some solvent bank or trust company, payable to the order of the state treasurer, as a guaranty that said debentures will be paid for by the bidder whose bid is accepted. Such certified check and the proceeds therefrom shall be forfeited to the State of Montana in case such bidder fails to make good his bid.

Bidder's bond required.

Cost of advertisement, how paid.

The cost of advertisement of the sale of any of said debentures shall be paid out of the state highway fund, as other claims against said fund are paid.

Allocation of sale proceeds for redemption of certain outstanding debentures.

Section 7. Out of the first proceeds received from the sale in the year 1945 or 1946 of state highway treasury anticipation debentures herein provided for, there shall be placed in the state highway treasury anticipation debenture interest and redemption fund of 1938 money which, when added to the balance in said fund, shall be sufficient to redeem all outstanding state highway treasury anticipation debentures issued under the authority of initiative measure No. 41, as amended by chapter 30 of the laws of the twenty-sixth legislative assembly of the State of Montana for the year 1939. The state treasurer is hereby authorized and directed to call for redemption and to redeem all such 1938 state highway treasury anticipation debentures on the first date or dates on which said 1938 debentures may be redeemed after the debentures herein provided for to be sold in the year 1945 or the year 1946 have been sold, and to pay or provide for the payment of the principal of and accrued interest upon such 1938 debentures out of funds in

State treasurer directed to redeem designated debentures.

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said state highway treasury anticipation debenture interest and redemption fund of 1938, as augmented by moneys which shall have been derived from the sale in the year 1945 or 1946 of state highway treasury anticipation debentures authorized under this act, and which money shall have been placed in said fund.

Balance of proceeds to be credited to state highway fund.

The proceeds received from the sale of state highway treasury anticipation debentures herein authorized, except that part of such proceeds to be placed in the state highway treasury anticipation debenture interest and redemption fund of 1938 as herein provided, and excepting any accrued interest and premium, shall be placed in the state treasury and credited to the state highway fund, to be used for the other purposes hereinbefore set out, and such proceeds are hereby appropriated to be used for such purposes; provided that any accrued interest or premium so received shall be deposited by the state treasurer in the said state highway treasury anticipation debenture interest and redemption fund of 1945, to be used for payment of the interest upon and maturing principal of said debentures.

Section 8. Except as otherwise expressly provided herein, all the covenants in such debentures and coupons agreed to be performed by the State of Montana shall be for the equal benefit, protection and security of the legal holders of all such debentures and coupons, and all debentures issued hereunder shall be of equal rank without preference, priority or distinction as to the benefit, protection and security of this act, regardless of the maturity of such debentures or the time or times of their issuance.

Debentures to be of equal rank.

Section 9. The license tax of five (5c) cents a gallon of gasoline on dealers or distributors, provided for in initiative measure No. 41 as amended by chapter 30 of the laws of the twenty-sixth legislative assembly of the State of Montana of 1939, and all gallonage taxes on dealers and distributors of gasoline imposed by prior laws, shall be repealed on the date on which the state treasurer shall have placed in the state highway treasury anticipation debenture interest and redemption fund of 1938 moneys which, when added to the balance in said fund, shall be sufficient to redeem all outstanding state highway treasury anticipation debentures issued under the authority of initiative measure No. 41, as amended by chapter 30 of the laws of the twenty-sixth legislative assembly of the State of Montana for the year 1939.

Repeal of gasoline taxes previously provided for repealed, when.

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Section 10. For the purpose of providing funds for the payment of the interest upon and maturing principal of the state highway treasury anticipation debentures herein provided for, every dealer as referred to and defined in the gasoline license tax laws of the State of Montana now in effect, from and after the time when the repeal of the tax provided in initiative measure No. 41 as amended shall become effective as hereinabove provided, until the principal and interest of all debentures issued under the authority of this act shall have been paid, shall pay to the state board of equalization, for deposit in the state treasury, a license tax for the privilege of engaging in and carrying on such business in this state, in an amount equal to five (5c) cents for each gallon of gasoline (as defined in Section 2381.11 Revised Codes of Montana 1935), refined, manufactured, produced or impounded by such dealer, and distributed, used or sold by him in this state, or shipped, transported or imported by such dealer into and distributed, used or sold by him within this state, after it has arrived in and is brought to rest within this state, whether sold in the original packages or in broken packages; provided that all gasoline delivered by any dealer to any of his own service stations in this state shall be deemed to have been sold, and shall be treated and considered as sold, in computing such license tax, in the same manner as though the same had been sold to other persons. In making the computation of license tax due and in making payment thereof, two percent (2%) of the amount of such tax shall be deducted by the dealer as an allowance for evaporation and other loss of gasoline handled by such dealer. No gasoline used or sold by such dealer, which was purchased by him from a dealer who has paid the tax thereon, shall be included or considered in determining the amount of such license tax to be paid by such dealer, and no gasoline exported by such dealer out of the State of Montana shall be included in the computation of any dealer's license tax herein provided for.

Levy of license tax.

Allowance for evaporation.

Section 11. If any section, provision, clause or phrase of this act be adjudged unconstitutional or invalid by any court, for any reason, such adjudication shall not affect the validity of this act as a whole, or of any section or provision thereof which is not specifically so adjudged unconstitutional or invalid.

Severability of act.

Section 12. This act shall be in full force and effect from and after its passage and approval, and proclamation

Effective date.

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to that effect by the governor, providing that on its submission to the people at a general election it shall receive a majority of the votes cast for and against it by the electors of the state qualified to vote thereon.

Approved February 15, 1945.

CHAPTER 40

An Act to Amend Section 1830.8, Revised Codes of Montana, Relating to Duties of State Forester Concerning Timber Sales and Scaling, to Provide for Tree Scale in Small Sales.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 1830.8, R. C. 1935, amended.

Section 1. That Section 1830.8, Revised Codes of Montana of 1935 be amended to read as follows:

"Section 1830.8. **Duties of State Forester Concerning Timber Sales—Scaling When Title Passes.** It shall be the duty of the state forester to supervise all the state timber sales, to secure payment to the state treasurer for all the timber before it is cut, to secure the most complete utilization of all forest products consistent with the current lumbering practice. It shall be his duty to instruct and supervise the cruisers, forest wardens and scalers in the conduct of their work; and to fix and establish the standard practice in timber sales administration. He shall require that each merchantable log be scaled by the Scribner decimal C. log rule inside the bark at the small end, and that the deduction be made for all visible cull. He shall fix and determine converting factors and units of measure for all forest products other than saw logs, which shall be as nearly as practical equivalent to the decimal C. log scale. He shall require that all merchantable logs sold be numbered consecutively on at least one end, and that the corresponding numbers and the scale therefor be entered in a scale book, which shall be retained as a permanent public record showing date of scale, the designation of the sale, and the name of the scaler or scalers who did the work. He shall also require that each merchantable saw log, stull, tie, post, pole or other piece of timber be stamped on one or both ends with the official state timber mark, which is hereby authorized and designated thus, 'S-T', signifying 'state timber'; *pro-*

Duty of state forester concerning timber sales.

Scaling of logs.

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vided, however, in the event of small sales of timber to individuals or others, where the volume of timber involved is not in excess of one million board feet (1,000,000) log scale, the state forester is authorized to designate each tree to be cut and make a tree scale measurement of all trees to be sold.

Proviso, concerning small sales.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved February 15, 1945.

CHAPTER 41

An Act to Amend Chapter 227 of the Laws of the Twenty-eighth Legislative Assembly of the State of Montana by Incorporating Therein in the Proper Order a New Section to Be Known As Section 3A Providing for the Method of Drawing a Jury for the Trial of Juvenile Cases.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That chapter 227 of the laws of the twenty-eighth legislative assembly of the State of Montana be and the same is hereby amended by incorporating therein following Section 3 of said chapter, a new section to be known as Section 3A, to read as follows:

Chap. 227, laws of 1943, amended.

"Section 3A. That in the trial of all juvenile cases in the State of Montana where a jury is required in such trial, the trial judge may, in his discretion, draw the jury to try said cause from the names contained in 'jury box No. 3' provided by Section 8907, Revised Codes of Montana 1935, as amended by Chapter 151 Session Laws of the State of Montana of 1937; provided, however, in the discretion of the court such cause may be tried before the regular trial jury panel if such jury should be in attendance for the trial of cases."

Jury in trial of juvenile cases, discretion of judge.

Approved February 15, 1945.

CHAPTER 42

An Act to Amend Section 12494 Revised Codes of Montana, 1935, As Amended by Chapter 156 of the Session Laws of

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Montana of 1943, Relating to State Industrial School and Changing Ages of Admission to Said Institution, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 12494, R. C. 1935, as amended, further amended.

Section 1. That Section 12494 of the Revised Codes of Montana, 1935, as amended by Chapter 156 of the Session Laws of Montana, 1943, be, and the same is hereby amended to read as follows:

"Section 12494. **Objects and Purposes. Commitment to School.** Said school shall be for the keeping and reformatory training of all male youths between the ages of *ten (10)* and twenty-one (21) years who are residents of the State of Montana and who have been regularly committed to said school by a duly authorized court. Such youths shall be presented to the presiding officer of said school by an accompanying officer, employee of said school, parent or guardian, who shall likewise exhibit a certificate of commitment from the court ordering same."

Objects and purposes.

Commitment to school.

Repealing clause.

Section 2. That all acts and parts of acts in conflict herewith, are hereby repealed.

Approved February 15, 1945.

CHAPTER 43

An Act providing the Method and Procedure of Securing a Confirmation Deed of Conveyance to Be Issued By the County Treasurer for Lands Described in Tax Deeds Previously Issued, the Form of Action Therefor, the Redemption of Lands From the Tax Sale, the Form of Judgment to Be Entered By the Court, the Duty of the County Treasurer to Issue the Deed and the Form Thereof and the Title to Be Conveyed Thereby.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Whenever the validity of any tax deed heretofore issued appears doubtful, the county or person to whom such deed was issued, or its or his assigns or successors in interest may, in addition to all other methods now provided by law, bring and maintain an action in the district court of the county in which said real property is

Confirmation of tax deed, action for authorized.

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situated for the purpose of acquiring a confirmation deed from the county treasurer and to quiet title to the lands to be covered thereby; which said action shall be brought and, except as herein provided, shall be prosecuted as other civil actions. Any action now pending to quiet title to lands covered by tax deeds may be amended to conform to this act.

Procedure.

Section 2. The action shall be commenced by the filing of a verified complaint in which the party bringing the same shall be named as plaintiff and all persons having any interest in said land, whose interest shall appear of record in the office of the county clerk of the county in which the property is situated, together with the county treasurer, shall be named as defendants; and plaintiff shall also join as defendamts all persons unknown who might make any claim to said real property by adding in the caption of the complaint in such action the words "and all unknown heirs and devisees of any defendant who may be deceased and all other persons unknown, claiming, or who might claim any right, title, estate or interest in, or lien or encumbrance upon the real property described in the complaint, or any thereof, adverse to plaintiff's ownership or any cloud upon plaintiff's title thereto, whether such claim or possible claim be present or contingent, including any claim or possible claim of dower, inchoate or accrued." The complaint shall, among other things, allege the description of the lands involved, that the said lands were duly assessed, that said taxes become delinquent, said land was sold for said taxes, that a tax deed or deeds to said lands has been heretofore issued and the general allegation that defendants have or claim some right, title, claim or interest in said land or in parts and parcels thereof adverse to plaintiff's claim and title thereto. If the county be the plaintiff, said action shall be brought in the name of the county. Several tracts of land, contiguous or non-contiguous and whether owned by different defendants or owners, and whether sold at the same time or at different times, may be included in one action, and all persons claiming title to or interest in or lien upon any of said lands, or any part thereof, although their said claims are independent and not in common and do not cover the same tracts, may be joined as defendants.

Parties defendant.

Complaint, contents of.

County as plaintiff, when.

What lands may be included.

Notice of pendency of action.

Section 3. Upon the filing of the complaint, a notice of the pendency of said action shall be filed in the office of the county clerk of the county in which the action is brought.

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Defendants, rights of.

Section 4. Any defendant may appear in said action within the time provided by law for appearances in civil actions and may set up any defense to said action he may have. Any defendant having an interest in said land as owner, encumbrancer, or otherwise, may therein question the legality, validity or sufficiency of the assessment or sale of said land and the tax deed formerly issued.

Redemption of land when former tax deed found invalid.

If upon the trial of said action, the court shall find that the former tax deed is invalid, then any such defendant may make redemption of the land in which he shall have an interest by paying the total amount of delinquent taxes from, but including, the year said taxes first became delinquent to and including the current year with penalties and interest as provided by law from date of delinquency, together with costs and expenses of the suit; said payment to be made within such time as may be ordered by the court, but not exceeding 10 days. If such payment be made, the county treasurer shall issue a certificate of redemption for said land so redeemed and the action as to said land and said defendant shall be dismissed. If said payment is not made as provided, then said defendant shall not be heard further in said action.

Certificate of redemption.

Trial of action and judgment.

Section 5. Upon the trial of said action, the court shall require proof of the facts alleged in the complaint and other pleading in said action, and by its judgment the court shall ascertain and determine by proper findings that the land was duly assessed, that said land was duly sold for the delinquent taxes, that said lands nor any part thereof has been redeemed from said sale, and that a tax deed or deeds to said lands has been heretofore issued and said judgment shall order and direct the county treasurer of said county to issue to the plaintiff a confirmation deed of conveyance for said land and that said judgment so entered and the deed issued, as directed therein, shall be binding and conclusive upon the defendants therein named and upon all persons claiming under any of them; and from and after the entry of said judgment all defendants therein named and all persons claiming under any of said defendants, including all unknown persons, shall be forever barred and enjoined from claiming or asserting any claim of any kind or nature whatsoever existing at the time of the entry of said judgment in or to the lands involved in said action, or to any part or parcel thereof, and shall decree that the

Confirmation deed and effect of.

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plaintiff is the owner of said land free and clear of all and every claim of said defendants.

Section 6. Upon filing with the county treasurer a certified copy of the judgment, he must issue to the plaintiff a deed for the lands described in the judgment, which deed in substance shall be as follows:

Contents and form of deed.

"This indenture, made by and between..... (insert name of treasurer), county treasurer of the county of.....(insert name of county) in the State of Montana, the party of the first part, and..... .....(insert name of grantee) the party of the second part, witnesseth:—

Whereas the lands and premises hereinafter described have been heretofore duly and regularly assessed to the then owners thereof, that said taxes were not paid and said property was sold for the payment of said taxes for the amount thereof, and certificates of sale were duly issued to the purchaser of said lands and filed as required by law, and,

Whereas, heretofore proceedings were had under which a tax deed for said land was issued to..... (name of grantee) and that the validity of said deed is doubtful, and

Whereas, by virtue of a judgment and decree entered by the district court of the.....judicial district of the State of Montana in and for the county of..... on the.....day of....., A. D.,....., wherein.....was plaintiff and..... and others were defendants, a certified copy thereof being filed in my office, I, the said county treasurer aforesaid, am ordered and directed to issue this deed of conveyance for said lands.

Now, therefore, I,.....(name of treasurer), of the county of....., in the State of Montana, for and in consideration of the sum of said taxes, penalties and interest paid on said property and in conformity to said judgment, do grant and convey to..... .....(insert name of grantee) of.....all the lands and premises situated in the county of..... .....in the State of Montana and described as follows:

.....Insert Description.....

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Witness my hand and seal this.....day of..... ....., 19..... (seal)

.....

County Treasurer of.....County, Montana.

State of Montana }
} ss.
County of.....}

On this.....day of.....A. D.,..... before me....., a Notary Public for the State of Montana personally appeared..... personally known to me to be the county treasurer of the county of....., Montana, and acknowledged to me that he, as such county treasurer, executed the same.

Acknowledgment, form of.

In witness whereof, I have hereunto set my hand and affixed my notarial seal the day and year in this certificate first above written.

(seal) ....."

Section 7. The deed issued pursuant to this act shall convey to the grantee the absolute title to the lands described therein as of the date of the expiration of the period of redemption, free of all encumbrances and clear of any and all claims of all of said defendants to said action, and of all persons claiming under them, except the lien for taxes subsequently attached and other liens and assessments now specified and provided by law.

Title conveyed.

Section 8. This act shall be in full force and effect from and after its passage and approval.

Effective date.

Approved February 15, 1945.

CHAPTER 44

An Act to Amend Section I of Chapter 194, Laws of the Twenty-eighth Legislative Assembly, 1943, Relating to Free Fees and Tuition in Any and All of the Units of the University of Montana, Including the Law and Medical Departments, and for Extra Studies in Any of The Units of the University of Montana, By Excepting Therefrom All Persons Who Qualify Under the Provisions of the "Servicemen's Readjustment Act of 1944" and "Public Law 16 of the Seventy-eighth Congress, Chapter Twenty-two, First Session", Providing the Effective Date of This Act.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section I of Chapter 194, laws of the twenty-eighth legislative assembly, 1943, be and the same is hereby amended to read as follows:

Sec. I, Chap. 194, laws of 1943, amended.

"Section 1. All honorably discharged persons who served with the United States forces in any of its wars and who were bona fide residents of the State of Montana at the time of their entry into said United States forces shall have free fees and tuition in any and all of the units of the university of Montana, including the law and medical departments, and for extra studies in any of the units of the university of Montana, *provided, however, that the provisions of this act shall not apply to persons who qualify under the provisions of the 'servicemen's readjustment act of 1944', being 'public law 346 of the seventy-eighth congress, chapter 268, second session' and 'public law 16 of the seventy-eighth congress, chapter 22, first session', and all acts supplementary and amendatory thereof.*"

Free tuition and fees at units of university for discharged veterans.

Exception.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Effective date.

Approved February 15, 1945.

CHAPTER 45

An Act to Amend Section 1224.3 Revised Codes of Montana 1935 As Amended by Chapter 178 Session Laws 1939, Relating to Bonds Issued by School Districts.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 1224.3, Revised Codes of Montana 1935 as amended by Chapter 178 Session Laws 1939 be and the same is hereby amended to read as follows:

Sec. 1224.3, R. C. 1935, amended.

"Section 1224.3. **What Forms of Bonds May Be Issued.** All bonds hereafter issued by any school district in this state shall be amortization bonds, if bonds in this form can be sold and disposed of at a reasonable rate of interest. If amortization bonds cannot be sold and disposed of at a reasonable rate of interest advantageous to the people for whose benefit the same are issued, then in such case serial bonds may be issued in place of amortization bonds.

Bonds, forms which may be issued.

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"Amortization bonds" defined.

The term 'amortization bonds', as used in this act, is hereby defined as meaning that form of bonds on which a part of the principal is required to be paid each time interest becomes due and payable, which part payment on the principal increases at each succeeding installment in the same amount that the interest payment decreases, so that the combined amount due on principal and interest on each succeeding due date remains the same until the bonds are fully paid; provided, however, that the final payment may vary in amount from the other payments to the extent resulting from disregarding fractional cents in the other payments.

"Serial bonds" defined.

The term 'serial bonds', as used in this act, is hereby defined as being a bond issue payable in annual installments, one installment, consisting of one or more bonds, becoming due and payable each year, the amount to be paid and redeemed each year being determined by dividing the total amount of the bonds to be issued by the total number of years the issue is to run; provided, however, that the installment becoming due and payable the first year may vary in amount from the others to the extent resulting from fixing the amount of each bond of the other installments; *provided, however, that the installments becoming due and payable the first year, or the first and second years, may vary in amount from the others to the extent resulting from fixing the amounts of each bond of the other installments at one hundred ($100.00) dollars, five hundred ($500.00) dollars or one thousand ($1,000.00) dollars as may be determined by the board of trustees.*"

Proviso, concerning bonds due in first and second years.

Effective date.

Section 2. This act shall be in full force and effect on and after its passage and approval.

Approved February 15, 1945.

CHAPTER 46

An Act Providing That Recipients of Old-age Assistance, to Whom Payments of Old-age Assistance Has Been Discontinued by Virtue of Their Being Gainfully Employed, Shall Immediately Upon the Termination of Such Employment, *Without Delay or Investigation Other Than Ascertainment of Such Fact of the Discontinuance of Such Employment* Be Immediately Reinstated On the Relief Rolls and Amending All Acts and Parts of Acts in Conflict Herewith.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Any recipient of old age assistance who may be temporarily employed, whose old age assistance has been discontinued because of such employment, shall upon termination of such temporary employment be immediately reinstated on the relief rolls for old age assistance, provided, however, that such recipient is otherwise eligible.

Immediate reinstatement of recipient of old age assistance upon termination of temporary employment.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Section 3. This act is hereby deemed and declared to be an emergency act and shall be in full force and effect immediatly upon its passage and approval.

Effective date.

Approved February 15, 1945.

CHAPTER 47

An Act Relating to the Abandonment of Joint School Districts.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. A joint school district may be ordered abandoned for any of the reasons set forth in Section 970, Revised Codes of Montana, 1935, as amended by Chapter 168, Session Laws, 1943, providing for the abandonment of school districts; or whenever the taxable valuation of the property situated in the portion of the joint district in any county shall be of so little value as not to justify the continuation of the joint district. The county superintendent of schools in determining the question of abandoning any joint district under this section by reason of terms of school not having been held therein, must include any period of time that may have elapsed before the approval of this act, and all of the provisions of said section 970, as amended, in so far as the same may be applicable and not in conflict with the provisions of this act, shall apply to the abandonment of joint school districts.

Abandonment of joint school district, for what reason.

The county superintendent of the county in which the school house or houses of the joint districts are situated, or performing the duties with regard to the budget of such joint district under the provisions of section 1019.24, shall be the county superintendent, who must, order the abandon-

Order to be made by whom.

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ment of a joint school district. When the county superintendent orders a joint district abandoned, written notice must be immediately given to the county superintendent of the other county or counties in which territory of the district ordered abandoned is situated, and each county superintendent must attach the territory of the abandoned district or districts within his or her respective county to some adjoining district or districts; provided that if the part of the territory of the joint district, situated in any one of the counties forming the original joint district has a taxable value of seventy-five thousand dollars ($75,000.00) or more, the county superintendent of the county, in which the said territory is located, having the above said taxable value, may if the district is not subject to abandonment for failure to hold terms of school as provided in said section 970, continue this same territory as a school district of such county. The county superintendents of the counties in which the territory of the abandoned joint district is situated must, within thirty (30) days after the date of the order of abandonment, meet and adjust and apportion the indebtedness, funds and property of the abandoned joint district, and furnish the county treasurer of each such county with a copy of the adjustment and apportionment agreement, in the same manner as provided by sections 1037.4 and 1037.5, Revised Codes of Montana, 1935, when joint school districts are dissolved, and if inter-county property subject to assessment by the state board of equalization is within the boundaries of such abandoned joint district, each county superintendent shall give the state board of equalization written notice of the district or districts, within their respective counties, to which any part of the territory of the abandoned joint district has been attached. If no school is being held in the joint district on the date the order is made for its abandonment such abandonment shall take effect immediately, otherwise it shall not take effect until the 30th day of June following.

Notice.

Attachment of territory to other districts.

Adjustment of indebtedness.

Notice to state board of equalization.

Effective date.

Section 2. This act shall be in full force and effect on and after its passage and approval.

Approved February 16, 1945.

CHAPTER 48

An Act to Amend Section 5, Chapter 171 of the Laws of the Twenty-seventh Legislative Assembly of the State of

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Montana, 1941, Relating to the Sale and Lease of Unredeemed Tax Title Property by County Commissioners, Permitting Counties to Reserve Oil, Gas and Mineral Rights and to Sell or Lease the Same, by Authorizing the County Commissioners to Enter Into Agreements for the Pooling of Acreage With Others for Unit Operations for the Production of Oil or Gas, or Both.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 5, Chapter 171 of the Laws of the twenty-seventh legislative assembly of the State of Montana, 1941, be, and the same is hereby amended to read as follows:

Sec. 5, Chap. 171, laws of 1941, amended.

"Section 5. Whenever such lands have been offered for sale at public auction and not sold, the county commissioners may, if deemed for the best interests of the county, lease said lands upon the best terms obtainable for farming, grazing, or for oil and gas development purposes, provided that such lease, when for farming land, shall not extend over a period longer than three (3) years, and when for grazing lands, such shall not extend over a period longer than five (5) years, except lands within a legally created or thereafter to be created grazing district when such lease may run for a period of not to exceed ten (10) years, provided, lands leased for all purposes may be subject to sale at the discretion of the board of county commissioners during the term of the lease and leases shall be subject to all rules and regulations relative to land use policies or regulations to best advance public welfare and benefit, that may be adopted by the board of county commissioners with the advice of the county agricultural planning committee and provided, further, that the lease rental may vary according to the livestock grazing capacity of the lands leased as determined by the board of county commissioners, and when for mineral or oil and gas purposes, said lease shall be for such terms as the board of county commissioners shall deem to be for the best interest of the county, and reserve a royalty of twelve and one-half per cent (12½%) which shall include any royalty payable to any person other than the county. *When deemed in the best interest of the county, the county commissioners may enter into agreements for the pooling of acreage with others for unit operations for the production of oil or gas, or both, and for the apportionment of oil or gas royalties, or both, on an acreage or other equitable*

Lease of lands not sold.

Royalty to be reserved in case of mineral land.

Pooling of acreage of unit operations

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basis, and may modify existing leases and leases hereafter entered into with respect to delay rentals, delay drilling penalties and royalties in accordance with such pooling agreements, and such unit plans of operation; provided, however, that such agreements shall not change the percentages of royalties to be paid to the county from the percentages as fixed in its leases. The county commissioners may also, after any of said lands have been offered for sale and not sold when it is deemed for the best interest of the county, exchange said lands for other lands of equal value where the effect of such exchange would be to acquire land which could be leased or sold to better advantage."

Exchange of land.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 16, 1945.

CHAPTER 49

An Act to Amend Section 591 of the Revised Codes of Montana 1935 Relating to the Compensation of Election Officers, and Increasing Same.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 591, R. C. 1935, amended.

Section 1. That Section 591 of the Revised Codes of Montana 1935 be and the same is hereby amended to read as follows:

"Section 591. **Compensation of Election Officers.** The compensation of members of boards of election, including judges and clerks, is hereby fixed at sixty-five cents per hour for the time actually on duty, during the years 1945 and 1946, and thereafter such compensation shall be fifty cents per hour, and must be audited by the board of county commissioners and paid out of the county treasury."

Compensation of elective officers.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 19, 1945.

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CHAPTER 50

An Act to Amend Section 1215 of the Revised Codes of Montana of 1935, Relative to the Reporting of Valuations of Taxable Property in School Districts and Cities and Towns.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 1215 of the Revised Codes of Montana of 1935 be and the same is hereby amended to read as follows:

Sec. 1215, R. C. 1935, amended.

"Section 1215. **County** *Assessor* **to Report Valuations of School Districts** *and Cities and Towns.* The county *assessor* of each county in the state must, at the time of delivering the completed assessment book to the county clerk of his county, as required by section 2052, also deliver to such county clerk *and to the county superintendent of schools and city and town clerks* a statement showing separately, for each school district *and each city and town* in his county, the total full and true value *and the taxable value* of *all* property *in such districts and cities and towns,* as the same appears in such completed assessment book.

County assessor to report valuation of school districts, cities and towns.

The county clerk must, after the second Monday in August and before or at the time of delivering the assessment book to the assessor, as required by Section 2161, RCM 1935, as amended by Chapter 167, Session Laws 1943, make out a statement showing separately for each school district, and for each city and town in the county, the total full and true value and the taxable value of all property in such districts, cities and towns, as the same appears on the assessment book after amendments, corrections and additions thereto have been made by the state and county boards of equalization and entered on such assessment book; and must immediately deliver to the county superintendent of schools a copy of so much thereof as shows such valuations for school districts and transmit to each city and town clerk a copy of so much thereof as affects such cities and towns.

Statement by county clerk.

In the case of a joint school district the county assessor and the county clerk must, at the time of making each of such statements, transmit copies of so much thereof as affects such joint school district to the county superintendent of schools and to the board of county commission-

In case of joint school district.

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ers of each county in which any part of the joint district may be situated.

Effective date.

Section 2. This act shall take effect upon its passage and approval.

Approved February 19, 1945.

CHAPTER 51

An Act to Amend Section 1203, Revised Codes of Montana of 1935; Raising the Allowable Amount of Reserve in School District Budgets.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 1203, R. C. 1935, amended.

Section 1. That Section 1203 of the Revised Codes of Montana of 1935 be and the same hereby is amended to read as follows:

"Section 1203. **Special School Tax.** On or before the second Monday in August the board of trustees of each school district shall certify to the county commissioners the amount of money needed by the district schools, over and above the amount apportioned to it by the county superintendent under the provisions of section 1204 of this code, to maintain the schools of said district, to furnish such appliances and apparatus as may be needed, and in districts of the first and second class, to maintain a school term of at least nine (9) months in each year, and such trustees shall, at the same time, in addition to the foregoing, separately certify the amount of money needed as a reserve fund for maintaining the elementary and high schools of the district from July first to November thirtieth, of the next succeeding school year; provided, that the budget of any school district, after the same is finally approved and adopted, shall be deemed and considered to be in lieu of and to take the place of such certificates. Such reserve fund shall not exceed *thirty-five percentum (35%)* of the amount appropriated in the final and approved budget of the district for the then current school year. The board of county commissioners shall thereupon levy a special tax for such purposes, not exceeding ten mills per dollar on the taxable property of the district, such tax to be computed on the same percentages as taxes for other purposes are computed, and to be levied and collected at the same time and

Special school tax.

Reserve fund.

Levy of tax.

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in the same manner as other taxes are levied and collected for county and school purposes. No part of the first half of the taxes levied or assessed during a school year for maintenance purposes shall be set aside or appropriated for such reserve, but the whole amount of such reserve shall, immediately after the first day of June, be set aside out of the second half of the taxes levied and assessed during such school year for maintenance purposes, and such reserve fund, when so set aside shall be carried in a separate fund and no part thereof shall be used by the district for any school purpose during such school year, provided, however, that if such school district shall have, at the end of such school year, any registered and outstanding warrants against its general fund, and shall be without sufficient money in such fund to call in and pay the same with the interest thereon, such reserve fund, or so much thereof as may be necessary, shall be used to call in and redeem and pay such warrants with interest thereon."

Reserve fund, further provisions covering.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Effective date.

Approved February 19, 1945.

CHAPTER 52

An Act to Amend Section 2073 of the Revised Codes of Montana of 1935 Relating to the Distribution of Migratory Stock Fund and Repealing All Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 2073 of the Revised Codes of Montana of 1935 be and the same is hereby amended to read as follows:

Sec. 2073, R. C. 1935, amended.

"Section 2073. **Distribution of Migratory Stock Fund.** At the regular meeting in *July* of the board of county commissioners, the assessor of *the* county shall transmit to the board all information filed with him or in his possession concerning stock assessed, wherein the taxes are to be apportioned between two or more counties, and the board

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Distribution of migratory stock fund.

of county commissioners shall proceed, on receipt of such information, to distribute said migratory stock fund, in proportion to the time said stock has been in each of such counties, as above provided, and order warrants drawn in favor of the counties entitled to receive a portion of the said taxes against such migratory stock fund, and the portion remaining, belonging to the home county, shall be distributed on the order of the board of county commissioners to the proper fund, according to the tax levy made during the year such assessment was levied, and the board shall make a like distribution of all moneys received from other counties under the provisions of this act."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Section 3. This act shall take effect upon its passage and approval.

Approved February 19, 1945.

CHAPTER 53

An Act to Amend Section 4753 of the Revised Codes of Montana of 1935 As Amended by Chapter 15 of the Laws of the Twenty-seventh Legislative Assembly of Montana of 1941, Relating to the Registry of High School Warrants and School District Warrants and the Rate of Interest Thereon.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 5753, R. C. 1935, as amended, further amended.

Section 1. That Section 4753 of the Revised Codes of Montana of 1935 as amended by Chapter 15, Session Laws of Montana of 1941, be and the same is hereby amended to read as follows:

"Section 4753. When any county warrant, *any high school warrant or any school district warrant* hereafter issued is presented to the treasurer for payment and the same is not paid for want of funds, the treasurer must endorse thereon, 'not paid for want of funds', annexing the date of presentation, and sign his name thereto; and from that time until paid the warrant shall bear interest at four (4%) per cent per annum."

Endorsement of warrants not paid.

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Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 3. This act shall take effect upon its passage and approval. Effective date.

Approved February 19, 1945.

CHAPTER 54

An Act to Amend Section 5668.38, Revised Codes of Montana, As Amended by Chapter 54 of the Session Laws of 1941, Relating to Levies for Airports and Landing Fields and Raising the Levy.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 5668.38 of the Revised Codes of Montana, 1935, as amended by Chapter 54 of the Session Laws of 1941, be amended to read as follows: Sec. 5668.38, R. C. 1935, as amended, further amended.

"Section 5668.38. For the purpose of establishing, constructing, equipping, maintaining and operating airports and landing fields under the provisions of this act the county commissioners of the city or town council may each year assess and levy in addition to the annual levy for general administrative purposes, a tax of not to exceed *two (2) mills* on the dollar of taxable value of the property of said county, city or town. Tax for airports authorized. In the event of a jointly established airport or landing field, the county commissioners and the council or councils involved shall determine in advance the levy necessary for such purposes and the proportion each political subdivision joining in the venture shall pay, based upon the benefits it is determined each shall derive from the project. Jointly established airports. Provided that if it be found that the levy hereby authorized will be insufficient for the purposes herein enumerated, the commissioners and councils acting are hereby authorized and empowered to contract an indebtedness on behalf of such county, city or town, as the case may be, upon the credit thereof by borrowing money or issuing bonds for such purposes, provided that no money may be borrowed and no bonds may be issued for such purpose until the proposition has been submitted to the taxpayers affected thereby, and a majority vote be cast therefor." Contracting debt, and issuance of bonds.

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Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 19, 1945.

CHAPTER 55

An Act to Amend Section 3, Chapter 199 of the Laws of 1943, Relating to the Organization, Rules and Regulations of the Montana Highway Patrol and Providing That the Montana Highway Patrol Shall Furnish Transportation for the Governor of the State of Montana While On Official Business.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 3, Chap. 199, laws of 1943, amended.

Section 1. That Section 3, Chapter 199, of the Laws of 1943 be amended to read as follows:

Organization.

Rules and regulations.

Transportation to be furnished governor.

"Section 3. **Organization—Rules and Regulations.** The Montana highway patrol board shall maintain a permanent place of business at the state capitol and shall meet at least once each month for the purpose of transacting its business. The Montana highway patrol shall provide for clerical help, provide for the maintenance of the patrol and for the employment and supervision of the patrol in conformity with the provisions of this act. *The Montana highway patrol shall furnish the governor of the State of Montana with automobile transportation upon his request, provided that such transportation shall be limited to travel and transportation of the governor while on official business of the State of Montana.*"

Effective date.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Approved February 19, 1945.

CHAPTER 56

An Act to Provide for the Support of the Government of Montana for the Years 1945 and 1946.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The following tax levies for state purposes are hereby made upon all property in the State of Montana,

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subject to taxation, for the year 1945, as ascertained by taking the percentage of the true and full value provided by law for purposes of taxation, to-wit: State tax levies for 1945.

A. For the state general fund, including the levy for the issue of four million five hundred thousand ($4,500,000.00) dollars state funding bonds, authorized by Chapter ten (10) of the Session Laws of the twenty-third legislative assembly of 1933, two (2) mills, or so much thereof as the state board of equalization may find necessary, under the provisions of Section 2122.13, Revised Codes of Montana, 1935. For state general fund.

B. For the university millage fund, to provide funds for the support of the greater university, as provided in referendum measure number forty-two (42) and passed by a vote of the people at the general election held November 5, 1940, three and one-half (3½) mills. For university millage fund.

Section 2. The following tax levies for state purposes are hereby made upon all property in the State of Montana subject to taxation for the year 1946, as ascertained by taking the percentage of the true and full value provided by law for purposes of taxation, to-wit: Levies for 1946.

A. For the state general fund, including the levy for the issue of four million five hundred thousand ($4,500,000.00) dollars state funding bonds, authorized by chapter ten (10) of the Session Laws of the twenty-third legislative assembly of 1933, two (2) mills or so much thereof as the state board of equalization may find necessary under the provisions of Section 2122.13, Revised Codes of Montana, 1935. For state general fund.

B. For the university millage fund, to provide funds for the support of the greater university, as provided in referendum measure number forty-two (42) and passed by a vote of the people at the general election held November 5, 1940, three and one-half (3½) mills. For university millage fund.

Section 3. If any part of this act shall be declared invalid or unconstitutional, it shall not affect the validity of any other part of this act. Severability of act.

Section 4. This act shall be in full force and effect from and after its passage and approval. Effective date.

Approved February 19, 1945.

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CHAPTER 57

An Act to Amend Section 1546.1 Revised Codes of the State of Montana, 1935, Relating to Money and Personal Effects of Deceased Members of the Montana Soldiers' Home.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 1546.1, R. C. 1935, amended.

Section 1. That Section 1546.1 of the Revised Codes of the State of Montana, 1935, be and the same is hereby amended to read as follows:

"Section 1546.1. **Reversion to Soldiers' Home of Money Left by Deceased Members and Not Claimed by Heirs.** Any money left on deposit with the Montana soldiers' home by a deceased member *which is* not claimed by his heirs in ten (10) years *shall* revert to the Montana soldiers' home, to be placed in a welfare fund to be expended under the direction of the board of managers. *Any personal effects of any deceased member, after the expiration of one (1) year from the date of his death, may be given to living members or be sold by said board at a public sale, unless claimed by the executor, administrator, or other legal representative, of said deceased member within said one (1) year. Said board is authorized to give to any living member any clothing of said deceased member as such living member may require for his health or welfare. All personal effects of a deceased member heretofore accumulated or on hand or which may hereafter accumulate at said soldiers' home may be sold or given to living members as herein provided. If such personal effects are not so claimed within such time, said personal effects may be sold. Said board shall give notice of such sale to be held at such soldiers' home on a date to be fixed by the board and such sales shall be advertised in some newspaper of general circulation, published and circulated in Flathead county, Montana, and elsewhere if the board deems it advisable, in three consecutive weekly issues of said newspaper or newspapers, at least fifteen (15) days prior to said sale. The proceeds of said sale or sales shall be placed by said board in the deceased members fund at said soldiers' home in the name of such deceased member, and if not claimed by his heirs in ten (10) years, to revert to the Montana soldiers' home to be placed in a welfare fund to be expended under the direction of the board of managers.*"

Reversion to soldiers' home of money left by deceased members not claimed by heirs.

Personal effects, disposition of.

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Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval. Effective date.

Approved February 19, 1945.

CHAPTER 58

An Act Authorizing and empowering the State Board of land Commissioners of the State of Montana to Sell and Convey Four (4) City Lots, Being Lots 28, 29, 30 and 31, in Block 34 Central Addition to the City of Helena to the Best Interest of the State of Montana, Said Four Lots Being the Site of the Former State Armory Abandoned and Razed After the Earthquakes of 1935.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the state board of land commissioners of the State of Montana be, and it is hereby authorized and empowered to sell and convey for cash, the price to be determined by a call for bids, four city lots, being lots numbered 28, 29, 30 and 31 in block 34, central addition to the city of Helena. The state board of land commissioners is hereby authorized to reject any and all bids. These lots were purchased by the State of Montana in 1889 and were the site of the former state armory which was wrecked by earthquakes in 1935 and razed to remove a public hazard. Subsequently the lots have been unused, only the large concrete platform and building foundation remaining. Sale of certain city lots by board of land commissioners authorized.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 3. This act shall take effect immediately upon its passage and approval. Effective date.

Approved February 19, 1945.

CHAPTER 59

An Act to Amend Section 6645 of the Revised Codes of Montana, 1935 Relating to Rights-of-Way for Pole Lines

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Along Streets, Roads and Highways by Authorizing Such Grants to Public Bodies.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 6645, R. C. 1935, amended.

Section 1. That Section 6645 of the Revised Codes of Montana, 1935 be and the same is hereby amended to read as follows:

"Section 6645. **Rights-of-Way for Pole Lines Along Streets, Roads, and Highways.** A telegraph, telephone, electric light, or electric power line, corporation, *or public body* or *any other* person owning or operating such, is hereby authorized to install its respective plants and appliances necessary for service, and to supply and distribute electricity for lighting, heating, power, and other purposes, and to that end to construct such telegraph, telephone, electric light or electric power line or power lines, from point to point, along and upon any of the public roads, streets, and highways in the State of Montana, by the erection of necessary fixtures, including posts, piers, and abutments necessary for the wires. But the same shall be so constructed as not to incommode or endanger the public in the use of said roads, streets, or highways, and nothing herein shall be so construed as to restrict the powers of city or town councils."

Rights-of-way for pole lines along streets, roads and highways.

Effective date.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Approved February 19, 1945.

CHAPTER 60

An Act Authorizing the Board of County Commissioners to Levy and Appropriate Funds from the General Fund of the County for the Purpose of Conducting Special Pure Bred Live Stock Shows and Pure Bred Live Stock Sales.

Be it enacted by the Legislative Assembly of the State of Montana:

Pure bred live stock shows and sales, expense for may be paid by county commissioners; limitation.

Section 1. The boards of county commissioners of the several counties of the State of Montana may, and they are hereby authorized to expend annually from the general fund of the county, not to exceed a sum equal to a levy of one-fourth mill on the taxable property of the county, for

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the purpose of conducting special pure bred live stock shows and special pure bred live stock sales within the county.

Section 2. For the purpose of defraying the costs of such pure bred live stock shows and such pure bred live stock sales, the county commissioners are authorized and empowered to levy annually a tax not to exceed one-fourth mill on the taxable property of the county, in excess of the amount levied for county purposes, which taxes shall be paid into the general fund of the county.

Tax levy authorized.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved February 19, 1945.

CHAPTER 61

An Act Amending Section 6 of Chapter 208 of the Session Laws of Montana, 1939, Relating to the Compensation and Expenses Allowed the Members of the Montana Grass Conservation Commission While Attending Official Meetings, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 6 of Chapter 208 of the Session Laws of Montana, 1939, be, and the same is hereby amended to read as follows:

Sec. 6, Chap. 208, laws of 1939, amended.

"Section 6. The members of the commission shall receive no compensation for their services *other than the actual amount of travelling expenses actually incurred in respect to the performance of their official duties in attendance at regular or special meetings of the board and ten dollars ($10.00) per diem for each day actually in attendance at such board meetings. The per diem of each member of the board shall be limited to not exceed the amount of five hundred dollars ($500.00) per year,* such *per diem* and expenses to be audited, allowed and paid as herein provided.

Compensation of members.

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The commission shall audit all claims, accounts or bills for expenses, *per diem,* or expenditures incurred by it *or* its employees. If the commission approves them, they shall be certified to the board of examiners of the State of Montana. When approved by such board, said claims, accounts, or bills, shall be transmitted to the state auditor who shall thereupon draw a warrant upon the state grass conservation fund in payment thereof; provided that the board may by resolution authorize the secretary to audit and certify all expenses, salaries, and expense accounts of the commission, or its employees, and such audit shall be made a part of the commissioners' report to the governor, a copy of which shall be sent to all state districts coming under the provisions of this act."

Auditing and payment of claims.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 19, 1945.

CHAPTER 62

An Act to Amend Section 5278.1 Revised Codes of Montana, As Amended by Chapter 15 Session Laws 1943, and Section 5278.4 Revised Codes of Montana 1935, Relating to the Issuance of Bonds by Cities and Towns; Providing the Terms of and the Procedure for Issuing Such Bonds; and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 5278.1, R. C. 1935 as amended, further amended.

Section 1. That Section 5278.1 Revised Codes of Montana 1935 as amended by Chapter 15 Session Laws 1943 be and the same is hereby amended to read as follows:

"5278.1. **Creation of Indebtedness—Submission to Taxpayers.** Whenever the council or *commission* of any city or town having a corporate existence in this state, or hereafter organized under any of the laws thereof, shall deem it necessary to issue bonds for any purpose whatever, under its powers as set forth *in any statute or statutes of this state,* or amendments thereto, the question of issuing such bonds shall first be submitted to the electors of such city or town *who are qualified to vote on such question,* in the manner hereinafter set forth; provided, however, that it

Issuance of bonds to be submitted to electors.

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shall not be necessary to submit to such electors the question of issuing refunding bonds *to refund bonds theretofore issued and then outstanding: provided further that no refunding bonds shall be issued unless such refunding bonds shall bear interest at a rate of at least one-half of one per cent (½ of 1%) less than the interest rate of the outstanding bonds to be refunded.* In order to issue bonds to refund bonds *theretofore issued and outstanding* it shall only be necessary for the council, at a regular or duly called special meeting, to pass and adopt a resolution setting forth the facts *with* regard to the indebtedness to be refunded, showing the reason for issuing such *refunding* bonds, and fixing and determining the details thereof, giving notice of sale thereof in the same manner that notice is required to be given of sale of bonds authorized at an election and then following the procedure in this act for the sale and issuance of such bonds."

Refunding bonds excepted.

Section 2. That Section 5278.4 Revised Codes of Montana 1935 be and the same is hereby amended to read as follows:

Sec. 5278.4, R. C. 1935, amended.

"5278.4. **Terms of Bonds—Rates of Interest.** No bonds for any purpose shall be issued for a longer term than twenty (20) years, and when bonds are issued for the purpose of refunding bonds *theretofore issued and outstanding,* such bonds shall not be issued for a longer term than *ten (10)* years, *provided that if the unexpired term of the bonds to be refunded shall be more than ten (10) years, then in such event, the refunding bonds may be issued for such unexpired term.* All bonds issued for a longer term than five (5) years may be redeemable at the option of the city or town *five (5) years from the date of issue and on any interest payment date thereafter, and it shall be* so recited in the bonds. The maximum rate of interest which any bonds may bear shall be six per cent (6%) per annum and shall be payable semi-annually."

Terms of bonds.

Rate of interest.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause

Section 4. This act shall be in full force and effect on and after its passage and approval.

Effective date.

Approved February 20, 1945.

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CHAPTER 63

An Act to Amend Sections 1758, 1758.2 and 1758.3 of the Revised Codes of Montana, 1935, As Amended by Chapter 72 of the Laws of the Twenty-fifth Legislative Assembly, 1937, and As Further Amended by Chapter 148 of the Laws of the Twenty-eighth Legislative Assembly, 1943, Relative to Certificates of Registration and Ownership of Motor Vehicles and Assignment of Numbers Thereto, to Transfer of Title or Interest, to Filing of Mortgage or Other Liens and Recording Same to Endorsement of Payment Thereof, Filing of Satisfactions of Such Liens, and to the Fees Therefor.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 1758, R. C. 1935, as amended, further amended.

Section 1. That Section 1758 of the Revised Codes of Montana, 1935, as amended by Chapter 72, Laws of the twenty-fifth legislative assembly, 1937, and as amended by chapter 148, laws of the twenty-eighth legislative assembly, 1943, shall be and the same is further amended to read as follows:

"1758. *Certificates of Registration and Ownership. Contents, Issuance Entry, Assignment of Numbers.* Upon receiving the *original* application for registration, duly executed in proper form, the registrar of motor vehicles shall cause to be entered the information contained in said application upon the corresponding records of his office and shall furnish the applicant a certificate of registration and a certificate of ownership, *and said owner* shall at all times retain possession of the certificate of ownership, except when the same is being transmitted to and from the registrar of motor vehicles for endorsement or cancellation. In the event the said certificate of ownership be in the possession or under the control of any person other than the person entitled to operate and possess the motor vehicle the same must be surrendered to the person entitled to operate and possess such motor vehicle, upon demand, and refusal shall constitute a misdemeanor. At the same time, he shall issue to any conditional sales vendor, or other person holding the legal title to the vehicle, or any mortgagee thereof, or other lien holder, a statement of the filing of such conditional sales contract, mortgage or other lien, said certificate of registration and ownership shall meet the following requirements:

Certificates of registration and ownership.

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(a) The certificate of registration and the certificate of ownership shall each contain upon the face thereof; (1) the date issued, (2) the registration number assigned to the owner and the vehicle, (3) the name and complete address of the owner and the name and complete address of any conditional sales vendor, and also the name and address of any other lienor as shown by said application, (4) a description of the registered vehicle including the year built and serial number, if any, (5) any lien against such motor vehicle and the amount due at the date of registration, and such other statement of facts as may be determined by the registrar. Contents of certificates.

(b) The reverse side of the certificate of ownership only shall contain a form of notice to the registrar of a transfer of title or interest of the owner and such other statement on forms as may be determined by the registrar.

(c) The term 'motor vehicle' *includes* automobile, truck, motorcycle, semi-trailer, trailer and trailer-house. "Motor vehicle" defined.

(d) *Any trailer, semi-trailer or trailer-house which does not have a manufacturer's or other identifying number thereon shall be assigned an identification number by the registrar upon registration of such motor vehicle. The owner or other person lawfully in possession of such motor vehicle shall stamp such number so assigned by the registrar upon the principal right frame member of said motor vehicle near the front end thereof where it may be clearly and readily seen, and said stamping shall be promptly accomplished after notice of the assigned number by the registrar. The registrar may withhold registration until satisfactory proof, by affidavit, of such stamping is filed with him.*" Trailers, semi-trailers, and trailer houses.

Section 2. Section 1758.2, Revised Codes of Montana, 1935, as amended by chapter 72, laws of the twenty-fifth legislative assembly, 1937, and as amended by chapter 148, laws of the twenty-eighth legislative assembly, 1943, shall be, and the same is hereby further amended to read as follows: Sec. 1758.2, R. C. 1935, as amended, further amended.

"1758.2 *Transfer of Title or Interest.* (a) Upon a transfer of any title or interest of an owner or owner in or to a motor vehicle registered under the provisions of this act as hereinbefore required, the person or persons whose title or interest is to be transferred shall write their signa- Transfer of title or interest.

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tures with pen and ink upon the certificate of ownership issued for such vehicle, in the appropriate space provided upon the reverse side of such certificate, and such signature shall be acknowledged before a notary public.

Outstanding certificates to be surrendered to registrar.

(b) Within ten (10) days thereafter, the transferee shall forward both the certificate of ownership so endorsed and the certificate of registration, together with the information required under Section 1758 of the Revised Codes of Montana 1935, to the registrar, who shall file the same upon receipt thereof and no certificate of ownership and certificate of registration shall be issued by the registrar of motor vehicles until the outstanding certificates are surrendered to that office or their loss established to his reasonable satisfaction.

Exception as to transfer to dealer.

(c) The provisions of sub-division (b) of this section, requiring a transferee to forward the certificate of ownership after endorsement and the certificate of registration to the registrar, shall not apply in the event of the transfer of a motor vehicle to a duly licensed automobile dealer intending to re-sell such vehicle and who operates the same only for demonstration purposes, but every such dealer shall upon transferring such interest deliver such certificate of ownership and certificate of registration with an application for registration executed by the new owner in accordance with the provisions of Section 1758 of the Revised Codes of Montana, 1935, and the registrar upon receipt of said certificate of ownership, certificate of registration and application for registration, together with the conditional sales contract or other lien, if any, shall issue a new certificate of ownership and certificate of registration together with a statement of any conditional sales contract, mortgage, or other lien as provided in said Section 1758 of the Revised Codes of Montana, 1935.

Transfer to new owner.

Transfer not valid without certificate by registrar.

(d) Until said registrar shall have issued a certificate of registration and certificate of ownership and statement as hereinbefore provided, delivery of any motor vehicle shall be deemed not to have been made and title thereto shall not have passed and said intended transfer shall be incomplete and not be valid or effective for any purpose.

Transfer by operation of law.

(e) In the event of a transfer by operation of law of any title or interest of an owner of the legal title or owner in and to a motor vehicle registered under the provisions of this act, as upon inheritance, devise or bequest, order in

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bankruptcy or insolvency, execution sale, repossession upon default in the performance of the terms of a lease or executory sales contract, or otherwise than by voluntary act of the person whose title or interest is so transferred, the executor, administrator, receiver, trustee, sheriff or other representative or successor in interest of the person whose title or interest is so transferred shall forward to the registrar of motor vehicles an application for registration in the form required for an original application for registration, together with a verified or certified statement of the transfer of such title or interest which statement shall set forth the reason for such involuntary transfer, the title or interest so transferred, the name or names of the person or persons to whom such title or interest is to be transferred, the process of procedure effecting such transfer and such other information as may be requested by the registrar and with such statement shall be furnished such evidence and instruments as may otherwise be required by law to effect a transfer of legal or equitable title to or an interest in chattels as may be required in such cases, and in the event the registrar shall be satisfied that such transfer is regular and that all formalities as required by law have been complied with, he shall cause to be sent to the owner, conditional sales vendors, lessors, mortgagees and other lienors, as shown by his records notice of such intended transfer and thereafter, but not less than five (5) days thereafter, shall register such motor vehicle and shall issue a new certificate of ownership and certificate of registration to the person or persons entitled thereto. The notice herein required shall be deemed complied with by deposit in the post office in Deer Lodge, Montana, such notice, postage prepaid, addressed to such person or persons at the respective addresses shown on his records.

Application for registration in such case.

New certificate.

In the event of the death of an owner of one *or more* motor vehicles and/or trailer, and/or semi-trailer, and/or trailer-house registered hereunder and not exceeding the value of one thousand dollars ($1,000.00), without leaving other property necessitating the procuring of letters of administration or letters testamentary, then the surviving husband or wife, or other heir, unless such property is by will otherwise bequeathed, may secure transfer of the certificate of ownership and the certificate of registration of the deceased, in and to such motor vehicle in the name of the surviving husband or wife or other heir, as above men-

Transfer in case of death of owner.

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tioned, upon filing with the registrar an affidavit of such person setting forth the fact of survivorship and the name and address of any other heirs and such other facts as are hereby made necessary to entitle the affiant to a transfer and thereupon the registrar is authorized to make such transfer of the certificate of ownership and certificate of registration, subject to all contracts, leases, mortgages, or other liens as shown by his records.

Transfer of interest or title by conditional sale vendor, mortgagee or other lien holder.

Nothing in the foregoing subdivision of this section shall prevent any conditional sales vendor, mortgagee, or other lienor from assigning his interest or title in or to a motor vehicle registered under the provisions of this act to any other person without the consent of and without effecting the interest of the holder of the certificate of ownership and certificate of registration. Upon any conditional sales vendor, mortgagee, or other lienor assigning his interest in any motor vehicle registered under this act a copy of such assignment must be filed with the registrar and record thereof made upon his records.

Transfer to junk dealer for scrapping.

(f) Every person who transfers any motor vehicle to a junk dealer for the purpose of scrapping said vehicle shall so notify the registrar and deliver the certificate of ownership and certificate of registration to the registrar for cancellation."

Sec. 1758.3, R. C. 1935, as amended, further amended.

Section 3. Section 1758.3, Revised Codes of Montana, 1935, as amended by Chapter 72, laws of the twenty-fifth legislative assembly, 1937, and as amended by Chapter 148, laws of the twenty-eighth legislative assembly, 1943, shall be, and the same is hereby further amended to read as follows:

Filing of liens.

"1758.3. *Filing of Liens, Rights, Procedure, Fees.* (a) No chattel mortgage, conditional sales contract, lease or other lien on a motor vehicle shall be valid as against creditors, subsequent purchasers or encumbrancers unless and until such mortgage, conditional sales contract, lease or other lien, or a true copy thereof certified by a notary public has been filed with the registrar or motor vehicles as hereinafter provided; the registrar shall not file any mortgage, conditional sales contract, lease or other lien unless such mortgage, conditional sales contract, lease or other lien is accompanied by the certificate of ownership of such vehicle, except in the sale of a new motor vehicle by a duly

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licensed dealer, and when such mortgage, conditional sales contract, lease or other lien or certified copy thereof is so presented for filing the registrar shall file the same entering upon his records the name and address of the mortgagee, conditional sales vendor, lessor, or other lienor together with the amount of the lien and he shall at the same time endorse the same information upon the face of the certificate of ownership, mailing a statement certifying to the filing of such mortgage, conditional sales contract, lease or other lien, to the mortgagee, vendor, or other lienor and mail the certificate of ownership to the owner at the address given on said certificate. The owner being the person entitled to operate and possess such motor vehicle.

Chattel mortgages and conditional sale contracts excepted from certain statutes relating to place of filing.

(b) A chattel mortgage on a motor vehicle is hereby expressly excepted from the provisions of sections 8278 and 8280 inclusive and a conditional sales contract on a motor vehicle is hereby excepted from the provisions of sections 7594 and 7596 inclusive in so far only as they relate to the place of filing of chattel mortgages, affidavits of renewal, conditional sales contracts or releases.

Filing of chattel mortgage or other lien constitutes notice.

(c) From and after the filing of any mortgage, conditional sales contract, lease, or other lien, or copy thereof on any motor vehicle, as herein provided, then and in that event such mortgage, conditional sales contract, lease or other lien shall be constructive notice of the said mortgage, conditional sales contract, lease or other lien and its contents to subsequent purchasers and encumbrancers.

Remedies of holders of chattel mortgages or conditional sales contracts.

(d) Upon default under a chattel mortgage covering a motor vehicle the mortgagee may foreclose his mortgage as in the case of other personal property, and upon default under a conditional sales contract covering a motor vehicle the vendor shall have the remedies prescribed by section 7597 upon delivery to the sheriff of the original instrument or a copy certified by the registrar of motor vehicles, and in case of attachment of motor vehicles all the provisions of section 8283 shall be applicable except deposits must be made with the registrar of motor vehicles instead of the county treasurer.

In case of attachment

Penalty for failure of lien holder to file satisfaction.

(e) In the event any conditional sales vendor or assignee or chattel mortgagee or assignee fails to file a satisfaction of a chattel mortgage, assignment or conditional sales contract within fifteen days after receiving final payment on such mortgage, assignment, or conditional sales

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contract he shall be required to pay the registrar of motor vehicles the sum of one dollar ($1.00) for each and every day thereafter that he fails to file such satisfaction. All moneys paid to the registrar of motor vehicles under this section shall revert to the automobile theft fund.

Registrar to mail notice of liens to owner of vehicle and lien holders.

(f) Upon receipt of any liens, or notice of liens dependent on possession, or attachments, etc., against the record of any motor vehicle registered in this state, the registrar shall within 24 hours, mail to the owner, conditional sale vendor, mortgagees, or assignees of any thereof a notice showing the name and address of the lien claimant, amount of the lien, date of execution of lien, and in the case of attachment the full title of the court and the action and the name of the attorneys for the plaintiff and/or attaching creditor.

Refiling of instruments already on file in office of county clerk.

(g) It shall not be necessary to refile with the registrar of motor vehicles any instruments on file in the offices of the county clerks and recorders at the time this law takes effect.

Fees of registrar.

(h) *A fee of one dollar ($1.00) shall be paid to the registrar of motor vehicles upon and for filing any lien or lien instrument against any motor vehicle, and said fee of one dollar ($1.00) shall further include and cover the cost of filing a satisfaction or release of the lien or lien instrument, and, also, the cost of endorsing such satisfaction or release on the face of the certificate of ownership or on the records of the registrar, or both. A fee of fifty cents ($.50) shall be paid the registrar of motor vehicles for issuing a certified copy of a chattel mortgage, conditional sales contract or other lien, or instrument of encumbrance on file in the office of the registrar, or for filing any assignment of any instrument on file with the registrar.''*

Section 4. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 5. This act shall be in full force and effect from and after July 1, 1945.

Approved February 20, 1945.

CHAPTER 64

An Act to Amend Section 375 of the Revised Codes of Montana, 1935 Fixing the Annual Salary of the Clerk of the Supreme Court.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 375 of the Revised Codes of Montana 1935 be and the same is hereby amended to read as follows:

Sec. 375, R. C. 1935, amended.

"375. **Salary of the Clerk of the Supreme Court.** The annual salary of the clerk of the supreme court for all services now required, or which may hereafter be devolved upon him by law, is *three thousand six hundred dollars.*"

Salary of clerk of supreme court.

Section 2. That this act be in full force and effect from and after the 5th day of January, 1947.

Effective date.

Approved February 20, 1945.

CHAPTER 65

An Act Authorizing the State of Montana and All Counties, Cities, Towns, Townships and School Districts of the State of Montana to Borrow Money from the United States Government for the Purpose of Financing the Cost of Architectural, Engineering, Economic Investigation and Studies, Surveys, Designs, Plans, Working Drawings, Specifications, Procedures and Other Action Preliminary to the Construction of Postwar Public Works, But Not Including Housing; and Providing When Such Authority Shall Expire.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purpose of providing ways and means for the State of Montana and counties, cities, towns, townships and school districts of the State of Montana to finance the cost of architectural, engineering, economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures and other action necessary and preliminary to the construction of any public works, but not including housing, in the postwar period, the State of Montana and all counties, cities, towns, townships and school districts of the State of Montana are hereby authorized to borrow money from the United States government under the terms and provisions and authority of public law No. 458 of the 78th congress of the United States, known as the "War Mobilization and Reconversion Act of 1944."

Authority granted state, counties, cities, towns, townships and school districts to borrow money from the United States.

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Section 2. The authority of the State of Montana and all counties, cities, towns, townships and school districts of the State of Montana to borrow money under the provisions of the preceding section is hereby expressly made subject to all constitutional and statutory limitations now existing in the constitution, statutes and laws of the State of Montana.

Limitations applicable.

Act expires, when.

Section 3. The provisions of this act shall expire at midnight on December 31, 1947.

Effective date.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved February 20, 1945.

CHAPTER 66

An Act to Amend Section 2438 of the Revised Codes of Montana, 1935, Relating to Keeper of Skating Rink or Merry-go-round, and Providing for the License to Be Paid to the State of Montana for Operation of the Same, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 2438, R. C. 1935, amended.

Section 1. That Section 2438 of the Revised Codes of Montana be and the same is hereby amended to read as follows:

Keeper of skating rink or merry-go-round. clause.

"Section 2438. **Keeper of Skating Rink or Merry-go-round.** Every keeper of a roller or ice-skating rink or merry-go-round in cities or towns of three thousand people and upward must procure a license and pay therefor the sum of *fifteen* dollars per quarter; and in towns of one thousand and less than three thousand people, *ten* dollars per quarter; and in towns of less than one thousand inhabitants, *five* dollars per quarter."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 20, 1945.

CHAPTER 67

An Act to Amend Section 2091 of the Revised Codes of Montana of 1935, Relative to Net Proceeds of Mines Taxes.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 2091 of the Revised Codes of Montana of 1935, be and the same is hereby amended to read as follows:

Sec. 2091, R. C. 1935, amended.

"Section 2091. **Transmission of Net Proceeds to County** *Assessor.* On or before the *first* day of *July* in each year the state board of equalization shall transmit to the county *assessor* of each county in which such mines and mining claims are situated, the valuation of the net proceeds of such mines and mining claims for the purpose of taxation, as the same have been determined and fixed by such state board of equalization, and the county *assessor* shall immediately enter the same upon an assessment roll called 'assessment roll of net proceeds of mines', alphabetically arranged, and in which shall be specified in separate columns and under the following heads:

Transmission of net proceeds to county assessor.

1. The name and address of the owner or lessee of the mine.

Assessment roll, contents of.

2. The description and location of the mine.

3. The number of tons of ore or other mineral products or deposits extracted and treated or sold from the mine during the period covered by the statement.

4. The gross value of the ores, mineral products or deposits, in dollars and cents, extracted and treated, or sold during the year, to be determined as provided in the preceding section.

5. The net proceeds, in dollars and cents, of such mine or mining claim during the years, to be determined as provided in the preceding section.

The form of said assessment roll shall be prescribed by the state board of equalization in conformity with the provisions of this act."

Forms.

Section 2. This act shall take effect upon its passage and approval.

Effective date.

Approved February 21, 1945.

CHAPTER 68

An Act to Amend Section 3 of Chapter 5 of the Session Laws of 1941, Relating to Eligibility Requirements for Aid to Persons Having Silicosis.

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Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 3, Chap. 5, laws 1941, amended.

Section 1. That Section 3 of Chapter 5 of the Session Laws of 1941 be and is hereby amended to read as follows:

"Section 3. **Eligibility Requirements for Aid to Persons Having Silicosis, as Herein Defined.**

Payments shall be made under this part to any person who

Eligibility requirements for aid to persons having silicosis.

(a) Has silicosis, as defined in this part, which results in his total disability to do manual labor.

(b) Has resided in and been an inhabitant of the State of Montana for ten (10) years, or more, immediately preceding the date of the application.

(c) Is not at the time of receiving a payment under this part an inmate of any public institution, except Montana state tuberculosis sanitarium. If the person to whom payment has been ordered to be paid is an inmate of the Montana state tuberculosis sanitarium, then and in that case the payment herein provided for shall be made to his wife and children if any.

(d) Is not receiving with respect to any month for which he would receive a payment under this part compensation under the workmen's compensation act of the State of Montana, which will equal the thirty ($30.00) dollars payment allowed hereunder. If he is receiving payments from such source which are less in the aggregate than thirty ($30.00) dollars per month, then if he is entitled to a payment under this part that payment shall be the difference between the amount which he is receiving under this plan and thirty ($30.00) dollars per month."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall take effect from and after its passage and approval.

Approved February 21, 1945.

CHAPTER 69

An Act for the Accumulating and Providing of Post-war Funds by Counties for the Construction, Improvement,

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Repair and Maintenance of Public Highways and Bridges Following the Date Proclaimed As the Termination of the Existing War Emergency; Authorizing the Board of County Commissioners of Each County to Levy a Special Tax of Not Exceeding Five (5) Mills During Each of the Two Years Beginning July 1, 1945 and July 1, 1946, Against the Taxable Property in the County Outside of the Limits of Incorporated Cities and Towns for the Purpose of Accumulating and Providing Funds for Such Purposes; Providing for the Placing of the Proceeds of Such Tax Levies in a Special Road and Bridge Fund; Providing for the Transfer to Such Fund of Unexpended and Unappropriated Funds in the County Road Fund and County Bridge Fund; Providing for the Budgeting of Expenditures to Be Made from Such Special Road and Bridge Fund; and Providing the Time and Manner in which Such Special Road and Bridge Fund May Be Expended.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purpose of accumulating and providing post-war funds for the construction, improvement, repair and maintenance of public highways and bridges following the date proclaimed by the president as the termination of the existing war emergency, or following the date specified by congress as the date of such termination, the board of county commissioners of each county in this state may, in their discretion, levy and cause to be collected, during each or either of the fiscal years beginning July 1, 1945 and ending June 30, 1946, and beginning July 1, 1946 and ending June 30, 1947, a special tax upon the taxable property in the county lying outside of the corporate limits of incorporated cities and towns, of not more than five (5) mills on the dollar, which shall be payable to the county treasurer with other taxes, which levies shall be in addition to all other levies now authorized by law to be made for road and bridge purposes. All moneys derived from such levies shall be placed in a special road and bridge fund and shall be kept separate from all other road and bridge moneys.

County commissioners authorized to levy special tax for post-war purposes.

Special road and bridge fund.

Section 2. The board of county commissioners of each county may, in their discretion, at the close of each of the fiscal years ending June 30, 1945, June 30, 1946, and June 30, 1947, transfer to such special road and bridge fund any

Transfer of other funds.

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unexpended and unappropriated funds remaining in the county road fund and in the county bridge fund, over and above the amount set apart and appropriated as a reserve for the then current fiscal year.

Section 3. No expenditures for any purpose whatever shall be made from such special road and bridge fund until after the date proclaimed by the president or by congress as the date of the termination of the existing war emergency. When such date has been proclaimed, either by the president or by congress, the board of county commissioners of any county having such fund may thereafter provide for the expenditure thereof for the purpose of constructing, improving, repairing and maintaining the public highways and bridges of the county; provided that no expenditure in excess of ten thousand dollars ($10,000.00) for any single purpose as defined in Section 4630.2, Revised Codes of Montana, 1935, shall be made from such fund without the approval of a majority of the electors voting on the question of such expenditure at an election to be provided by law.

Expenditure postponed till termination of existing war emergency.

Purposes for which funds may be expended.

Section 4. Immediately after termination of the existing war emergency the board of county commissioners of any county having such special road and bridge fund shall adopt a budget making appropriations therefrom for the construction, improvement, repair and maintenance of the public highways and bridges in the county for the remaining portion of the then current fiscal year, notice thereof being given, hearing thereon had and such budget adopted in the manner provided for emergency budgets by Section 4613.6, Revised Codes of Montana, 1935, as amended by chapter 170, session laws, 1943; for each fiscal year thereafter when any moneys are to be expended therefrom, the county budget shall contain and set forth a separate section as a budget for such special road and bridge fund, and all of the provisions of the county budget law shall apply thereto; provided, however, that at any time after the close of the fiscal year ending June 30, 1947, the board of county commissioners may in their discretion, instead of providing a separate budget for the expenditure of any moneys then in such special fund, transfer the same to the county road fund or to the county bridge fund or transfer a part thereof to each of such funds.

Budget to be adopted.

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Section 5. This act shall be in full force and effect on and after its passage and approval. Effective date.

Approved February 21, 1945.

CHAPTER 70

An Act Authorizing Counties to Create County Forests from County Timber Lands Acquired by Tax Deed or by Exchange for Tax Deed Lands; to Exchange Tax Deed Lands for Timber Lands; to Sell Timber and Other Crops and to Issue Permits for Cutting and Removal of Timber Under Regulations and Restrictions Therein Provided; and Providing for the Distribution of Proceeds of Such Sales and Permits.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The board of county commissioners of any county in the State of Montana is hereby authorized to create "county forests" from any lands in such county principally valuable for the timber thereon or for the growing of timber, which lands have been acquired by such county by tax deed and have been offered for sale at public auction and not sold, or have been acquired by such county by exchange for lands acquired by tax deed. Such county forests shall be established by resolution of the board of county commissioners of such county and may be discontinued by resolution of said board. Creation of "county forests" by county commissioners authorized.

Section 2. After any lands acquired by the county by tax deed have been offered for sale at public auction and not sold, the board of county commissioners may exchange such lands for other lands which are principally valuable for the timber thereon or for the growing of timber, if, in the opinion of such board of county commissioners, it is in the best interests of such county to acquire such other lands for the purpose of creating county forests or for the purpose of consolidating such lands with then existing county forests. County owned tax-deed lands may be exchanged.

Section 3. The board of county commissioners may sell the timber crop and other crops of county forests, under such rules and regulations as it may establish; provided, however, that a notice of any proposed sale of timber in excess of one hundred thousand feet (100,000) board meas- Sale of timber and other crops of county forests, procedure for.

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ure shall be advertised at least once in a newspaper published in the county at least thirty (30) days prior to the closing of bids as specified in said notice, and the board of county commissioners shall receive sealed bids up to the hour of the closing of bids. The board of county commissioners may reject any or all bids, or it may award the sale to the highest responsible bidder. Upon award of sale, the purchaser shall execute a formal agreement, which shall describe the area on which the timber is to be cut, the approximate amount to be cut by species, the rate for each product of each species, stipulate that all timber shall be paid for in advance of cutting, fix a date for termination of the agreement, define rules of silviculture, cutting, utilization, scaling, and slash disposal, and incorporate such other rules as in the discretion of the board of county commissioners are essential to the perpetuation of the county forests. As a guarantee for the faithful performance of the agreement, the purchaser shall be required to furnish a bond, with sufficient securities, to the county, in an amount equal to at least twenty per cent (20%) of the estimated value of the timber sold.

Bond required of purchaser.

Section 4. Upon breach of any timber sale agreement, the board of county commissioners is authorized to suspend cutting or removal of the timber, and, upon advice and counsel of the county attorney, to take such steps as are deemed by it necessary to adjust the breach or to liquidate the county's claim for damages, or to submit the case to the county attorney for collection on the bond.

Breach of timber sale agreement, recourse.

Section 5. Permits may be issued free of charge for dead, down, or inferior timber in such quantities and under such restrictions and regulations as the board of county commissioners may approve for fuel and domestic purposes to residents and settlers of the county.

Dead and down timber.

Permits may be issued to citizens of the State of Montana for commercial purposes at commercial rates without advertising, under such restrictions and rules as the board of county commissioners may approve, for timber in quantities of one hundred thousand feet (100,000) board measure, or less. Repeated permits of this kind shall not be issued to avoid advertising and the consequent competition secured thereby.

Permits, issuance of.

Section 6. The proceeds of every such sale or of the issuance of any such permit shall be paid over to the county

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treasurer who shall apportion and distribute the same in the following manner:

Proceeds of sales or permits, apportionment and distribution of.

(a) The proceeds of each sale up to the amount of ten ($10.00) dollars shall be credited to the county general fund to reimburse such for expenditures made therefrom in connection with the holding of such sale or the issuance of such permit.

(b) If there shall be any amount remaining of such proceeds and such remainder is in excess of the aggregate amount of all taxes and assessments accrued against such property for all funds and purposes, without penalty and interest, then so much of such remaining proceeds shall be credited to each fund or purpose, as the same would have received had such taxes been paid before becoming delinquent and all excess shall be credited to the general fund of the county.

(c) If there shall be any amount remaining of such proceeds and such remainder is less in amount than the aggregate amount of all taxes and assessments accrued against such property for all funds and purposes, without penalty or interest, such proceeds shall be pro-rated between such funds and purposes in the proportion that the amount of taxes and assessments accrued against such property for each such fund or purpose bears to the aggregate amount of taxes and assessments accrued against such property for all funds and purposes.

Construction of act.

Section 7. Nothing in this act shall be construed as repealing chapter 171, laws of the twenty-seventh legislative assembly of 1941, as amended by chapter 82 of the laws of the twenty-eighth legislative assembly of 1943, or chapter 128 of the laws of the twenty-sixth legislative assembly of 1939, as amended by chapter 141 of the laws of the twenty-seventh legislative assembly of 1941.

Effective date.

Section 8. This act shall be in full force and effect from and after its passage and approval.

Approved February 21, 1945.

CHAPTER 71

An Act to Amend Section 5159 of the Revised Codes of Montana 1935; Sections 5166 and 5167 of the Revised

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Codes of Montana 1935 As Amended by Chapter 60 of the Laws of the Twenty-seventh Legislative Assembly and Section 5194 of the Revised Codes of Montana 1935 As Amended by Chapter 48 of the Laws of the Twenty-fifth Legislative Assembly, Relating to the Power of Cities and Towns to Procure, Construct, Establish, Equip, Maintain and Operate Parks, Swimming Pools, Skating Rinks, Playgrounds, Civic Centers, Youth Centers, Museums, and Combinations Thereof, and to Borrow Money and Levy Taxes Therefor.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 5159, R. C. 1935, amended.

Section 1. That Section 5159 of the Revised Codes of Montana 1935, be amended to read as follows:

"5159. **Public Parks and Grounds,** *Civic and Youth Centers,*—**Additional Indebtedness of Municipalities to Provide.** A city or town council, or commission, in addition to the power it now has under the law, has and is hereby granted and given the further power to contract an indebtedness on behalf of a city or town, upon the credit thereof, by borrowing money or issuing bonds for the purpose of purchasing and improving lands for public parks and grounds, *or for procuring by purchase, or construction, or otherwise, a site and building for a civic center, a youth center, or combination thereof, and furnishing and equipping the same;* provided that the total amount of indebtedness authorized to be contracted in any form, including the then existing indebtedness, must not at any time exceed three per centum of the *value* of the taxable property of the city or town, as ascertained by the last assessment for state and county taxes *previous to the incurring of such indebtedness;* and provided, further, that no money must be borrowed on bonds issued for the purchase of lands and improving same for any such purpose, until the proposition has been submitted to the vote of *those qualified under the provisions of the state constitution to vote at such election* in the city or town affected thereby, and a majority vote cast in favor thereof."

Public parks and grounds, civic and youth centers.

Sec. 5166, R. C. 1935, amended.

Section 2. That Section 5166 of the Revised Codes of Montana 1935 as amended by chapter 60 of the laws of the twenty-seventh legislative assembly be amended to read as follows:

"Section 5166. **Cities and Towns Authorized to Estab-**

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lish Swimming Pools, Skating Rinks, Playgrounds, *Civic and Youth Centers,* **and Museums.** All cities or towns incorporated under the laws of the State of Montana, in addition to other powers conferred upon them, may, in their discretion, *procure,* construct, establish, maintain, and operate swimming pools, skating rinks, playgrounds, *civic centers, youth centers,* and museums, and to defray the cost and expense of *procuring* constructing, establishing, *equipping,* maintaining, and operating the same from the funds of said city or town *raised for such purposes.*"

Cities and towns authorized to establish swimming pools, skating rinks, play grounds, civic and youth centers and museums.

Section 3. That Section 5167 of the Revised Codes of Montana 1935 as amended by Chapter 60 of the laws of the twenty-seventh legislative assembly be and the same is hereby amended to read as follows:

Sec. 5167, R. C. 1935, as amended, further amended.

"Section 5167. **Power of Municipal Council With Respect to Same.** Power and authority is hereby granted to the city or town council of all cities and towns incorporated under the laws of the State of Montana to make and pass all by-laws, ordinances, resolutions, rules and orders necessary for the *procurement,* establishment, *equipment,* maintenance, regulation and operation of swimming pools, skating rinks, playgrounds, *civic centers, youth centers,* museums, *and combinations thereof,* including the power to establish by ordinance a reasonable and uniform charge for the privilege of using the same. *Said city or town council is further authorized in its discretion to place any or all of said institutions under the control and management of the board of park commissioners.*"

Power of municipal council with respect to same.

Section 4. That Section 5194 of the Revised Codes of Montana 1935 as amended by Chapter 48 of the laws of the twenty-fifth legislative assembly be and the same is hereby amended to read as follows:

Sec. 5194, R. C. 1935, as amended, further amended.

"Section 5194. **Limitation on Amount of Tax for Municipal Purposes—Distribution of Funds—Levy for Park, Swimming Pools, Playgrounds,** *Youth Centers,* **and Other Purposes.** The amount of taxes to be assessed and levied for general municipal or administrative purposes in cities of the first class with a population of thirty-five thousand (35,000) or over must not exceed one and four-tenths (1-4/10%) per centum of the assessed value of the taxable property in all cities of the first class, and all other cities and towns must not exceed one and three-fourths (1-3/4%) per centum on the per centum of the assessed value of the

Limitation on amount of tax for general municipal purposes.

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taxable property of the city or town; and the council in each city or town may distribute the money collected into such funds as are prescribed by ordinance; provided, that for the purpose of *procuring, equipping* and maintaining public parks, swimming pools, skating rinks, playgrounds, *civic centers, youth centers,* museums, *and combinations thereof,* the council in any city or town may assess and levy, in addition to the said levy for general municipal or administrative purposes, not exceeding *six (6)* mills on the dollar on the per centum of the assessed value of the taxable property of the city or town."

Proviso, relating to additional tax for certain purposes.

Repealing clause.

Section 5. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 21, 1945.

CHAPTER 72

An Act to Amend Section 12458 of the Revised Codes of Montana of 1935 As Amended by Chapter 110, Session Laws of Montana of 1943, Relating to the Furnishing of Clothing and Money to Convicts Upon Their Discharge from the State Prison.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 12458, R. C. 1935, as amended, further amended.

Section 1. That Section 12458 of the Revised Codes of Montana of 1935 as amended by Chapter 110 Session Laws of Montana of 1943 be and the same is hereby amended to read as follows:

"Section 12458. **Discharged Convict Entitled to Clothes and Money.** Whenever any convict is discharged from the *state prison and is delivered to the custody of any state or federal law enforcement officer or agent for transfer to any other state prison, federal prison or other penal institution, the warden must pay him five ($5.00) dollars in money and must also furnish him with only such clothing as is reasonably necessary and suitable for his use during said transfer, at a cost not exceeding twenty-five ($25.00) dollars. Whenever any other convict is discharged from the state prison, the warden must provide him with proper and suitable clothes at a cost not exceeding twenty-five ($25.00) dollars and must pay him twenty-five ($25.00) dollars in money; provided, however, that there shall be deducted from said*

Discharged convict entitled to clothes and money.

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twenty-five ($25.00) dollars payment whatever amount such convict then has to his credit in cash or bonds on the books and records of the prison."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall take effect upon its passage and approval.

Approved February 21, 1945.

CHAPTER 73

An Act to Amend Section 8933 of the Revised Codes of Montana of 1935, Relating to Salary and Expenses of Stenographer—Apportionment.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 8933, R. C. 1935, amended.

Section 1. That Section 8933 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Salary of stenographer.

"Section 8933. Every stenographer appointed under the provisions of this chapter receives an annual salary of three thousand *six hundred* dollars, ($*3600*.00) and no other compensation except as provided in Section 8931 *of the Revised Codes of Montana of 1935*, payable in monthly installments out of the general funds of the counties comprising the district for which he is appointed, according and in proportion to the number of civil and criminal actions entered and commenced in the district courts of such counties respectively in the preceding year; and it shall be the duty of the judge of such district, on the first day of January of each year, or as soon after as may be, to apportion the amount of such salary to be paid by each county in his district on the basis aforesaid. The stenographer is allowed, in addition to the salary and fees above provided, in judicial districts comprising more than one county, his actual and necessary expenses of transportation and living when he goes on official business to a county of his judicial district other than the county in which he resides, from the time he leaves his place of residence until he returns thereto, said expenses to be apportioned and payable in the same way as the salary."

Apportionment to be made among counties in district.

Expenses allowed.

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Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effort from and after its passage and approval.

Approved February 21, 1945.

CHAPTER 74

An Act to Amend Section 2396.2 of the Revised Codes of Montana, 1935, Relating to the Use of the State Highway Fund on the Federal Highway System.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 2396.2, R. C. 1935, amended.

Section 1. That Section 2396.2 of the Revised Codes of Montana, 1935, relating to the use of the state highway fund on the federal highway system be, and the same is hereby amended to read as follows:

Use of state highway fund on federal highway system.

"2396.2. **Use of State Highway Fund on Federal Highway System.** All moneys of the state highway fund, including moneys arising from the license tax upon dealers in gasoline and motor fuels, but excluding moneys being held in such fund for refund or drawback purposes and expense of collection and enforcement, shall be used and expended by the state highway commission in the construction, reconstruction, betterment, maintenance, administration and engineering on the federal highway system of highways in this state selected and designated under the provisions of the federal aid act, approved July 11, 1916, and the federal highway act approved November 9, 1921, and all amendments thereto, and for the purpose of construction, reconstruction, betterment, maintenance, administration and engineering of highways leading from each county seat in the state to said federal highway system of federal aid roads where such county seat is not on said system, and for the purpose of construction, reconstruction, betterment, maintenance, administration and engineering of such other roads as have been or may be authorized by the laws of Montana. Provided, that the total net costs to the state for administration on the federal aid work contemplated by this act shall not exceed for any fiscal year eight per cent (8%) of the total of state, federal aid and other available funds expended under the supervision of the state highway com-

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mission. It shall be the duty of the state highway commission, in expending such money, to carry forward construction from year to year, using the money expended through the matching up of federal aid allotments to Montana upon the said federal highway system of highways in the various parts of the state in proportion to the amount of mileage still to be constructed in the various sections of that system as defined in section 2396.1; provided that nothing in this act shall be construed to conflict with said federal aid highway acts and the rules by which they are administered."

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 21, 1945.

CHAPTER 75

An Act to Amend Section 5386 of the Revised Codes of Montana 1935, Relating to the Place Where the Council Shall Have Its Office; the Salaries and Compensation of the Mayor and Councilmen for Cities Operating Under the Commission Form of Government.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 5386, R. C. 1935, amended.

Section 1. That Section 5386 of the Revised Codes of Montana 1935 be and the same is hereby amended to read as follows:

Council, place of office, salaries and compensation.

"Section 5386. **Place of Office of Councilmen—Salaries and Compensation.** The council shall have their office at the city hall, and their total compensation shall be as follows: In cities of the third class having a population of less than three thousand (3,000), the annual salary of the mayor shall be six hundred ($600.00) dollars, and the annual salary of each councilman shall be five hundred ($500.00) dollars; in cities of the third class having a population of three thousand (3,000) or more, the annual salary of the mayor shall be one thousand ($1,000.00) dollars, and the annual salary of each councilman shall be nine hundred ($900.00) dollars; in cities of the second class, the annual

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salary of the mayor shall be one thousand six hundred and fifty ($1,650.00) dollars, and the annual salary of each councilman shall be one thousand five hundred ($1,500.00) dollars; in cities of the first class having a population of less than thirty thousand (30,000), the annual salary of the mayor shall be *thirty-six hundred ($3600.00)* dollars, and the annual salary of each councilman shall be *three thousand ($3,000.00)* dollars; in cities of the first class having a population of thirty thousand (30,000) and less than fifty thousand (50,000), the annual salary of the mayor shall be four thousand ($4,000.00) dollars, and the annual salary of each councilman shall be *thirty-four hundred ($3400.00)* dollars; and cities of the first class having a population of fifty thousand (50,000) or more, the annual salary of the mayor shall be four thousand five hundred ($4,500.00) dollars, and the annual salary of each councilman shall be three thousand five hundred ($3,500.00) dollars.

Increase in salary occasioned by increase in population.

Any increase in salary occasioned by the advance in class or increase in population of any city shall commence with the month next after the publication of the census showing such advance in class or increase in population.

Salaries of other officers.

Every other officer or assistant shall receive such salary or compensation as the council shall by ordinance from time to time provide, payable in equal monthly installments, *or at such shorter periods as the council shall determine.*

Salary of employees.

The salary or compensation of all other employees of such city shall be fixed by the council, and shall be payable monthly, or at such shorter periods as the council shall determine."

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 22, 1945.

CHAPTER 76

An Act to Amend Section 10 of Chapter 84 of the Session Laws of 1937, Relating to Qualifications of Liquor Licensees, to Eliminate Necessity for Residence in the County for One (1) Year.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 10 of Chapter 84 of the Session Laws of 1937 be and the same is hereby amended to read as follows:

"Section 10. No license shall be issued by the board to:

1. A person who has been convicted of being the keeper or is keeping a house of ill fame. Keeper of house of ill-fame.

2. A person who has been convicted of pandering or other crime or misdemeanor opposed to decency and morality, or the laws of the federal government or the State of Montana. Panderer.

3. A person whose license issued under this act has been revoked for cause. Person whose license has been revoked.

4. A person who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application. No renewal to ineligible person.

5. A person who is not qualified or whose premises do not conform to the provisions of this act, or with the rules and regulations promulgated by the board. Person not qualified, or premises unfit.

6. A person who is not a citizen of the United States and who has not been a citizen of the State of Montana for at least five (5) years." Citizenship requirements.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved February 22, 1945.

CHAPTER 77

An Act to Authorize in Certain Instances the Boards of County Commissioners to Levy An Additional Tax of Not to Exceed Four (4) Mills for County Poor Fund.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Whenever the board of county commissioners of counties coming within the provisions of this act find that the total amount that may be derived from all other sources will be inadequate to provide the revenue necessary to meet the appropriations for expenditures to be set forth Additional tax levy for poor fund in certain counties.

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in the poor fund section of the county budget, such county commissioners shall have the power and the authority to levy not to exceed four (4) mills, or so much thereof as may be necessary to meet such expenditures, as an additional levy for the county poor fund after receiving a certificate authorizing them so to do, issued by the state board of equalization as in this act provided.

Certification of county poor fund budget by state examiner and state department of public welfare.

Section 2. On or before the second Monday in July, the board of county commissioners of any county desiring to avail themselves of the provisions of this act shall submit a certified copy of their county poor fund budget to the state examiner and a like certified copy of such budget to the state department of public welfare. The state examiner shall examine such budget and if it is found by the state examiner that such budget is in compliance with the laws of this state and the rules and regulations of such examiner's office, he shall so certify and transmit such certified copy of the budget, together with his certificate thereon, to the state board of equalization. The state department of public welfare shall examine such budget and if it finds the expenditures and revenues of the previous year are correct and the estimated expenditures and revenues for the current year are approximately correct, then such department shall transmit such copy, together with its certificate, to the state board of equalization.

Certification by state board of equalization.

Section 3. The state board of equalization shall, on receipt of the certified copies of such county poor fund budget containing certificates as provided in section 2 hereof, examine such documents and if such board finds that a levy as authorized in section 1, or any part thereof, in addition to all other poor fund revenues is necessary, the said board shall certify the amount of the levy to be made by the county commissioners of such county and transmit such certificate to such board of county commissioners who shall thereupon be authorized to make such levy as is authorized.

Effective when.

Section 4. This act shall be in full force and effect from the 1st day of July, 1945 to the thirtieth day of June, 1947, and not thereafter.

Repealing clause.

Section 5. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 22, 1945.

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CHAPTER 78

An Act Creating a State Laboratories Commission, to Make Plans for the Erection and Supervision of a Modern Laboratory for Testing and Research Facilities, and Defining the Duties of Such Commission.

Be it enacted by the Legislative Assembly of the State of Montana:

State laboratory commission created; members designated.

Section 1. A state laboratory commission of seven members is hereby created and established consisting, ex-officio, of the following officials of the State of Montana: The chief engineer of the state highway commission; the chief engineer of the state water conservation board; the executive officer of the state board of health; the executive officer of the state livestock sanitary board; the state purchasing agent; the commissioner of agriculture, labor and industry; and the attorney general.

Terms of office —compensation of commission members.

Section 2. The members of said commission shall hold office until the commission is changed, or abolished, by the legislative assembly; they shall serve as such commission without compensation other than the salaries now or hereafter provided by law, to be paid said officers. The members of the commission shall, however, be paid their actual traveling, and other expenses necessarily incurred by them in discharging their duties, under this act.

To make plans for laboratory building.

Section 3. The state laboratories commission is created for the purpose of making plans for the construction and equipping of a modern and efficient laboratory building designed to meet the requirements of the various state departments of Montana, which need laboratory testing and research facilities to efficiently perform their functions.

Location and equipment of building.

Section 4. Said laboratory building shall be erected on land now owned, or hereafter to be acquired by the State of Montana. Said building shall be erected and equipped for laboratory purposes as soon as the war emergency will permit, and when materials and labor are available, and a sufficient legislative appropriation of funds is had.

Planning, what included.

Section 5. The plans contemplated in this act shall include the determination of the size, design, location and furnishing of said laboratory building; the examination of other similar buildings, and the gathering of full information necessary for the designing, building and equipping of

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a laboratory of the character specified in this act. The commission shall, also, have authority to employ such architectural or other technical assistance as it may deem necessary in planning for a laboratory building of the kind contemplated in this act. No action shall be taken nor recommendations made except by unanimous agreement of the members of the state laboratory commission.

Unanimous agreement of members required for action.

Section 6. To insure maximum service to the citizens of Montana, and to the various state departments and institutions using said laboratory facilities, the state laboratories commission shall continue as a supervisory and determining board, having jurisdiction over the operation of said building and its laboratory facilities.

Continuing jurisdiction of commission.

Approved February 22, 1945.

CHAPTER 79

An Act Amending Section 9 of Chapter 184 of the Session Laws of Montana of 1943, Relating to Escheated Estates and the Determination of Inheritance Tax Thereon.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 9 of Chapter 184 of the Session Laws of Montana of 1943, be and the same is hereby amended to read as follows:

"Section 9. Any persons claiming property in the hands of the state treasurer must bring an action in the district court of Lewis and Clark county, Montana, against the state treasurer. In such action one copy of the complaint and summons must be served upon the state treasurer, one must be served upon the attorney general *and one must be served upon the state board of equalization.*

Court action by claimant of property in hands of state treasurer.

"Such action shall be prosecuted subject to all of the provisions of the statutes of this state in relation to civil actions generally, including the right of either party to appeal to the supreme court of the State of Montana. Such action must be brought within two (2) years from the date on which the money or property is received by the state treasurer, saving, however, to infants and persons of unsound mind, or citizens of the United States beyond the limits of the United States, the right to commence their action at any

Limitation of action.

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time within the time limited or two (2) years after their respective disabilities cease.

"The judgment of the court in such action shall determine and fix the amount of inheritance tax, if any, which is due from said claimant to the State of Montana upon the money or property claimed and none of said money or property shall be turned over to said claimant until said inheritance tax is paid. The state board of equalization shall issue its interlocutory certificate showing the amount of said inheritance tax due, if any, and shall have the right to file objections and be heard upon the final determination of said tax."

Inheritance tax to be determined in such action.

Approved February 22, 1945.

CHAPTER 80

An Act to Amend Section 1805.56 of the Revised Codes of Montana 1935, Relating to the Sale of State Lands to the United States and the Grant of Easements for Public Purposes by Providing for the Sale of Lands and Grant of Easements for Electric Transmission and Distribution Line Purposes.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 1805.56 of the Revised Codes of Montana 1935 be and the same is hereby amended to read as follows:

Sec. 1805.56, R. C. 1935, amended.

"Section 1805.56. **Sale of State Lands to United States —Easements for Public Purposes Granted—Mineral Reservations—Land for Projects Administered by State Water Conservation Board.** Any land now or hereafter owned by the State of Montana and needed by the United States in the construction of projects for the control of floods, river regulation, conservation of water, irrigation and reclamation works *or transmission or distribution of electric energy*, shall, upon application to the state board of land commissioners, be sold and conveyed to the United States at the price per acre fixed by the board of appraisers appointed by the United States to appraise and value lands to be included within such projects and needed by the United States in the construction thereof; subject, however, to the approval of the state board of land commissioners, and the

Sale of state lands to United States.

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price limitations of the enabling act and the state constitution.

Easement for public purposes granted.

There is hereby granted to the United States over all the lands now owned or hereafter acquired by the State of Montana, an easement of sufficient width for the purpose desired for right of way for ditches, canals, tunnels, telephone, *telegraph and electric power* lines now constructed or to be constructed by the United States government in furtherance of the reclamation of arid lands, *flood control, river regulation, conservation of water and transmission and distribution of electric energy.*

Reservation to be made in conveyances of state lands.

All conveyances of state lands shall contain a reservation of such rights of way easements. It is further provided that whenever said lands herein granted as rights of way shall cease to be used for such purpose, the same shall revert to the State of Montana, upon notice to that effect being given to the proper authorities.

Mineral reservations.

The mineral reservations now applying to sale of lands received through grants from the United States shall apply to all lands sold to the United States under this act, but all prospecting and exploration for minerals therein, the mining and removal thereof and all operations carried on in connection therewith, must be carried on in such manner and under such regulations that they will not interfere with the use of the lands for the purposes for which they have been purchased by the United States.

Appraisal of lands.

Lands needed by the United States for any of the aforesaid purposes may be appraised or reappraised without appraising the remaining state lands in the county in which they are located. The lands shall be appraised at their full market value.

Act applicable to sale of lands for certain projects financed by United States.

The provisions of this act governing the sale of state lands to the United States shall also apply to the sale of state lands for projects financed by the United States under the administration of the state water conservation board, except as to appraisal by the United States."

Effective date.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Approved February 22, 1945.

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CHAPTER 81

An Act to Amend Section 1535, Revised Codes of the State of Montana, 1935, Relating to Admission to the Montana Soldiers' Home.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 1535 of the Revised Codes of the State of Montana, 1935, be and the same is hereby amended to read as follows:

Sec. 1535, R. C. 1935, amended.

"Section 1535. Any soldier, sailor, or marine, who served in the army or navy of the United States during the late Civil war, or in the Mexican war, or during any troubles between the United States and the government of Mexico, or the people of Mexico, or in the late war with Spain, or in any insurrection in the Philippine Islands, or during the Boxer troubles with China, or who, within the borders of the territory of Montana, served in the Sioux war of 1875 or the Nez Perce war of 1877, or any person who served with the United States army in the campaign of 1890 and 1891 against the Sioux and Cheyenne Indians or other Indian campaigns within the borders of the State of Montana, or during the war with Germany and Austria, or who served in Russia, Siberia, or any other foreign country during the war with Germany and Austria, *or any person who served in any branch of the military service of the United States during the current World War, known as World War II*, or who while a citizen of the United States, served in the army or navy, *or other branch of the military establishment* of any of the allies of the United States and has returned to and lives in Montana, or during any troubles arising or growing out of any such war or wars, and has received honorable discharge therefrom, who at the time of admission is an invalid by reason of disease contracted, wounds received, *old age*, or by reason of other disability, *and who has become unable to earn a livelihood by reason thereof*, shall be eligible to admission to the benefits of the home under the rules and regulations prescribed by the board of managers thereof, on the certificate of disability by a county commissioner and the county physician of the county in which the applicant may reside; and the transportation of such applicant to said soldiers' home shall be a proper county charge, and be paid by said county if the ap-

Persons eligible to admission to Montana Soldiers' Home.

Certificate of disability.

Transportation of applicant.

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plicant is unable to pay the same; provided, that the benefits of said home shall not be extended to anyone who has not resided within the State of Montana for a period of one (1) year next preceding the date of his application, or to anyone who has not resided within the county from which he asks to be sent to the home for the period of three (3) months from the date of his application, nor to anyone convicted of a felony or of a crime involving moral turpitude, nor shall anyone who has been an habitual drunkard be received without sufficient evidence of subsequent good conduct and reformation of character as may be satisfactory to the said board of managers; provided, further, that in case said soldiers' home shall not have the capacity to receive all persons designated here, that veterans of the Civil war shall have preference as to admission."

Persons not eligible.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 22, 1945.

CHAPTER 82

An Act to Amend Section 3 of Chapter 161, Session Laws of 1939, As Amended by Chapter 123 of the Laws of 1941, Relating to the Montana Armory Board.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 3 of Chapter 161, Session Laws of 1939, as amended by chapter 123 of the laws of 1941, be, and the same is hereby amended to read as follows:

Organization and meetings.

"Section 3. The board shall organize by selecting from its membership a secretary and treasurer, and said board may change such officers from time to time. *Three (3)* members shall constitute a quorum at all meetings, provided all members have been notified of such meetings. The board shall hold its first meeting on the first Tuesday in April, 1939, and thereafter all meetings shall be held as provided by the by-laws of the board."

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Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval. Effective date.

Approved February 22, 1945.

CHAPTER 83

An Act to Provide Penalties for Using, Manufacturing, Selling or Giving Away Tokens, Slugs, or Spurious Coins for the Fraudulent Operation of Lawful Vending Machines, Coin-box Telephones or Other Receptacles, Designed to Receive Lawful Coins of the United States of America, in the Sale, Use or Enjoyment of Property or Service.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Any person who, by means of any token, slug, false or counterfeited coin, or by any other means, method, trick or device whatsoever not lawfully authorized by the owner, lessee, or licensee of any lawful vending machine, coin-box telephone or other receptacle designed to receive or be operated by lawful coin of the United States of America in furtherance of or connection with the sale, use or enjoyment of property or service, knowingly shall operate or cause to be operated, or shall attempt to operate or attempt to cause to be operated, any lawful vending machine, coin-box telephone or other receptacle designed to receive or be operated by lawful coin of the United States of America, or whoever shall take, obtain, accept or receive, from or by means of any such machine, coin-box telephone or other receptacle, any article of value of service or the use or enjoyment of any telephone, telegraph or other facility or service, without depositing in, delivering to and payment into such machine, coin-box telephone or receptacle the amount of lawful coin of the United States of America required therefor by the owner, lessee or licensee of such machine, coin-box telephone or other receptacle, shall be fined not more than two hundred dollars ($200.00), or imprisoned not more than sixty (60) days, or both. Operation of vending machines and coin-box telephones by means other than lawful coin penalized.

Section 2. Any person who knowingly or having cause to believe that the same is intended for fraudulent or un-

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Manufacture, sale and giving away of token, slugs or other devices for operation of vending machines or coin-box telephones penalized.

lawful use on the part of the purchaser, donee or user thereof shall manufacture for sale, sell or give away any token, slug, blank, disc, tag, planchet, false, mutilated, sweated or counterfeited coin or any device or substance whatsoever intended or calculated to be placed, deposited or used or which may be so placed, deposited or used in any lawful vending machine, coin-box telephone or other receptacle designed to receive or be operated by lawful coin of the United States of America in furtherance or connection with the sale, use or enjoyment of the property or service of the use or enjoyment of any telephone, telegraph or other facilities or service, shall be fined not more than two hundred dollars ($200.00), or imprisoned not more than sixty (60) days, or both.

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 4. This act shall be in full force and effect from and after July 1, 1945.

Approved February 22, 1945.

CHAPTER 84

An Act Providing for the Inspection of Homes for the Aged or Boarding Homes by the State Board of Health and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Inspection of homes for the aged or boarding homes by state board of health.

Section 1. The state board of health is hereby authorized and directed to inspect all homes privately operated as homes for the aged or boarding homes, for five or more aged persons, whether such aged persons are receiving public assistance from the State of Montana, or any county therein, or are supported in whole or in part by their own or other private funds or resources, and whether such homes are operated by an individual, partnership, voluntary association or corporation, and for which a charge is made for such care, maintenance, board and room.

Report of findings.

Section 2. The state board of health shall furnish a report of its findings as to all boarding homes inspected at least quarterly and as often as requested by the state de-

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partment of public welfare, and to any county upon request.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved February 22, 1945.

CHAPTER 85

An Act to Approve and Ratify the "Yellowstone River Compact" Between the States of Montana, North Dakota and Wyoming.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The legislative assembly of the State of Montana hereby approves and ratifies the compact designated as the "Yellowstone River Compact", dated at the city of Billings, State of Montana on the 18th of December, 1944, signed by Fred E. Buck, W. E. Ogden, P. F. Leonard, H. W. Bunston, Wesley A. D'Ewart, E. E. Tiffany, D. M. Manning, Chester E. Onstad, Paul J. Hagan and Axel Persson, as state representatives of the State of Montana on a compact commission between the states of Montana, North Dakota and Wyoming; which compact is as follows: "Yellowstone river compact" approved and ratified.

YELLOWSTONE RIVER COMPACT

The State of Montana, the State of North Dakota, and the State of Wyoming, being moved by consideration of interstate comity, and desiring to remove all causes of present and future controversy between said states and between persons in one and persons in another with respect to the waters of the Yellowstone river and its tributaries, other than waters within or waters which contribute to the flow of streams within the Yellowstone National Park, and desiring to provide for an equitable division and apportionment of such waters, and to encourage the beneficial development and use thereof, have resolved to conclude a compact as authorized under the act of the congress of the United States of America, approved March 16, 1944 (Public No. 257, 78th congress, second session), for the attainment of these purposes, and to that end, through their re- Parties to compact. Purposes.

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spective governments, have named as their respective commissioners:

Commissioners for Montana.

For the State of Montana:

Fred E. Buck	E. E. Tiffany
W. E. Ogden	D. M. Manning
P. F. Leonard	Chester E. Onstad
H. W. Bunston	Paul J. Hagan
Wesley A. D'Ewart	Axel Persson

For North Dakota.

For the State of North Dakota:

J. J. Walsh	M. M. Millhouse
Kenneth W. Simons	Frank P. Whitney
Einar H. Dahl	John T. Tucker

For Wyoming.

For the State of Wyoming:

L. F. Thornton	David G. Anderson
John Gonin	W. B. Snyder
Earl Bower	Mark N. Partridge
Ray Bower	L. C. Bishop
R. E. McNally	H. J. Paustian
E. J. Johnson	W. R. Holt
Ernest J. Goppert	

who, after negotiations participated in by Harold D. Comstock, appointed as the representative of the United States of America, have agreed upon the following articles, to-wit:

ARTICLE I

A "state" includes what.

A. Where the name of a state is used in the compact, as a party thereto, it shall be construed to include the individuals, corporations, partnerships, associations, districts, administrative departments, bureaus, political subdivisions, agencies, persons, permittees, appropriators, and all others using, claiming, or in any manner asserting any right to the use of the waters of the Yellowstone river system under the authority of said state.

Who are subject to terms of compact.

B. Any individual, corporation, partnership, association, district, administrative department, bureau, political subdivision, agency, person, permittee, or appropriator authorized by or under the laws of a signatory state, and all others using, claiming, or in any manner asserting any right to the use of the waters of the Yellowstone river system under the authority of said state, shall be subject to the terms of this compact. Where the singular is used in this article, it shall be construed to include the plural.

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ARTICLE II

Definitions.

A. The State of Montana, the State of North Dakota, and the State of Wyoming are hereinafter designated as "Montana", "North Dakota", amd "Wyoming", respectively.

B. The terms "commission" and "Yellowstone river compact commission" mean the agency created as provided herein for the administration of this compact.

"Yellowstone river basin."

C. The term "Yellowstone river basin" means areas in Wyoming, Montana, and North Dakota drained by the Yellowstone river and its tributaries, and includes the area in Montana known as lake basin.

"Yellowstone river system."

D. The term "Yellowstone river system" means the Yellowstone river and all of its tributaries, including springs and swamps, from their sources to the mouth of the Yellowstone river near Buford, North Dakota, except those portions thereof which are within or contribute to the flow of streams within the Yellowstone national park.

E. The term "tributary" means any stream which in a natural state contributes to the flow of the Yellowstone river, including interstate tributaries and tributaries thereof, but excluding those which are within or contribute to the flow of streams within the Yellowstone national park.

"Interstate tributaries."

F. The term "interstate tributaries" means the Clarks Fork, Yellowstone river; the Big Horn river; the Tongue river; and the Powder river; whose confluences with the Yellowstone river are respectively at or near the city (or town) of Laurel, Big Horn, Miles City, and Terry, all in the State of Montana.

G. The term "point of diversion" means the point or place at which water is taken or removed from the channel of the Yellowstone river or from any tributary thereof.

H. The terms "divert" and "diversion" mean the taking or removing of water from the Yellowstone river or any tributary thereof when the water so taken or removed is not returned directly into the channel of the Yellowstone river or of the tributary from which it is taken.

"Divertible flow."

I. The term "divertible flow" means the quantity of water that could be diverted from the stream flow above a designated point of measurement during a specified period

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of time. It is comprised of three elements: (a) the total net inflow to storage; (b) the total diversions; and (c) the remaining flow in the stream at the designated point of measurement for which the divertible flow is being determined. It is computed as follows:

The algebraic sum of:

How computed.

(a) The quantity of water (in acre-feet) that flowed into reservoirs situated above the point of measurement during the specified period of time; less the outflow and diversions made directly from reservoirs (in acre-feet) during the same period; plus

(b) The quantity of water (in acre-feet) that was diverted from the stream above the point of measurement (including diversions made directly from reservoirs) during the specified period of time; plus

(c) The quantity of water in the stream (in acre-feet) that flowed past the point of measurement for which divertible flows are being determined during the specified period of time.

"Mean divertible daily flow."

J. The term "mean divertible daily flow" means the average divertible flow occurring during a twenty-four hour period, beginning at 12:00 midnight.

"Mean daily flow."

K. The term "mean daily flow" at any point means the average stream flow occurring at that point during a twenty-four hour period, beginning at 12:00 midnight.

"Beneficial use."

L. The term "beneficial use" is herein defined to be that use by which the water supply of a drainage basin is depleted when usefully employed by the activities of man, and includes water lost by evaporation, percolation, and other natural causes from streams, canals, ditches, irrigated areas, and reservoirs.

ARTICLE III

Commission to administer compact.

A. This compact is entered into by each signatory state in the exercise of its sovereign powers for a governmental purpose, and its provisions shall be administered by a commission, composed of one representative from each signatory state, to be known as the Yellowstone river compact commission. The state representatives on this commission shall be selected in such manner as each signatory state shall choose. The state engineer of each signatory state, or other similar official, shall be and act as the state representative

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on the commission at all times when a vacancy may exist thereon either from failure to designate a method of selection or otherwise. The president of the United States shall be requested by the commission to designate a representative of the United States to sit with such commission, and such representative of the United States, if designated by the president, shall, when present, act as chairman of the commission without vote.

Salaries and expenses, allocation of.

B. The salaries and necessary expenses of each state representative shall be paid by the respective state; all other expenses incident to the administration of this compact not borne by the United States shall be allocated to and borne by each state as follows: One-fifth by the state of North Dakota; and two-fifths each by the states of Montana and Wyoming.

Jurisdiction of commission to include what.

C. In addition to other powers and duties herein conferred upon the commission and the members thereof, the jurisdiction of the commission shall include the collection, correlation, and presentation of factual data, the maintenance of records having a bearing upon the administration of this compact, and, by unanimous action, the making of recommendations to the respective states upon matters connected with the administration of this compact. In connection with the performance of its duties hereunder, the commission may employ such services and make such expenditures as may be reasonably necessary, within the limit of funds provided for that purpose by the respective states. The commission shall compile a report for each year ending September 30th, and shall transmit it to the governors of the signatory states on or before December 31st of that year.

Cooperation of federal and state officers and agencies.

D. The secretary of war; the secretary of the interior; the secretary of agriculture; the chairman, federal power commission; the chief, federal weather bureau, or comparable officers of whatever federal agencies may succeed to the functions and duties of these agencies, and such other federal officers and officers of appropriate agencies of the signatory states having services or data useful or necessary to the compact commission, shall cooperate, ex-officio, with the commission in the execution of its duty in the collection, correlation, and publication of records and data necessary for the proper administration of the compact; and these officers may perform such other services related to the compact as may be mutually agreed on with the commission.

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Powers of commission.

E. The commission shall have power to formulate rules of procedure, rules, and regulations, and to perform any and all acts it may find necessary to carry out the provisions of this compact, and to prescribe, issue, make, amend, and rescind such order, rules, and regulations. All rules of procedure, rules, and regulations of the commission shall be filed in the office of the state engineer of each signatory state and shall be kept in a convenient form for public inspection and examination during reasonable business hours.

May sue and be sued.

F. The commission herein authorized shall have power to sue and be sued in its official capacity in any federal court of the signatory states, and may adopt and use an official seal which shall be judicially noticed.

ARTICLE IV

Water gaging and evaporation stations.

The commission shall itself, or in conjunction with other responsible agencies, cause to be established, maintained, and operated such suitable water gaging and evaporation stations as it finds necessary in connection with its duties.

ARTICLE V

Apportionment of waters.

A. The states of Montana, North Dakota, and Wyoming hereby agree that the waters of the Yellowstone river and its interstate tributaries shall be apportioned among said states as follows:

1. **Clarks Fork, Yellowstone River**

Clarks Fork of Yellowstone river.

Each day, during the period May 1st to September 30th, inclusive, of each year, the first 1,600 acre-feet of mean divertible daily flow of the main stem of the Clarks Fork, Yellowstone river, determined immediately above the confluence of Rock creek with Clarks Fork in Montana, shall be divided fourteen (14) per cent to Wyoming and eighty-six (86) per cent to Montana; however, either state may temporarily divert, consume, or store for its beneficial use any unused part of the above flow allotted to the other, but no continuing right to such unused flow shall be established thereby. Unappropriated divertible daily flows in excess of 1,600 acre-feet occurring during the period May 1st to September 30th, inclusive, of each year, and all presently unappropriated flows occurring during the period October 1st to April 30th, inclusive, shall be subject to future appropriation for beneficial use within the Yellowstone river basin in Montana, North Dakota and Wyoming in accordance with the laws of said respective states.

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2. Big Horn River (Exclusive of Little Horn River)

Each day during the period May 1st to September 30th, inclusive, of each year, after due consideration being given to all Indian-treaty-water rights of the lands in Wyoming and Montana served directly from the main stem of the Big Horn river, the first 15,000 acre-feet of mean divertible daily flow of the Big Horn river, determined at or near the Big Horn river bridge on U. S. highway 87 near Hardin, Montana, shall be divided ninety (90) per cent to Wyoming and ten (10) per cent to Montana; and the next 15,000 acre-feet of mean divertible daily flow shall be divided ninety-three (93) per cent to Wyoming and seven (7) per cent to Montana; provided, however, that either state may temporarily divert, consume, or store for its beneficial use any unused part of the above flows allotted to the other, but no continuing right to such unused flows shall be established thereby. Subject to Indian-treaty-water rights, the unappropriated divertible daily flows in excess of 30,000 acre-feet occurring during the period May 1st to September 30th, inclusive, of each year, and all presently unappropriated flows occurring during the period October 1st to April 30th, inclusive, shall be subject to future appropriation for beneficial use within the Yellowstone river basin in Montana, Wyoming and North Dakota in accordance with the laws of said respective states.

Big Horn river.

3. Tongue River

Each day during the period May 1st to September 30th, inclusive, of each year, the first 2,200 acre-feet of mean divertible daily flow of the Tongue river, determined at the lowest point of diversion on this stream, shall be divided seventy-two (72) per cent to Wyoming and twenty-eight (28) per cent to Montana; and the next 1,200 acre-feet of mean divertible daily flow shall be divided forty-three (43) per cent to Wyoming and fifty-seven (57) per cent to Montana: Provided, that either state may temporarily divert, consume, or store for its beneficial use any unused part of the above flows allotted to the other, but no continuing right to such unused flows shall be established thereby. Unappropriated divertible daily flows in excess of 3,400 acre-feet occurring during the period May 1st to September 30th, inclusive, and all presently unappropriated flows occurring during the period October 1st to April 30th, inclusive, of each year, shall be subject to future appropriation for beneficial use within the Yellowstone river basin in Wyom-

Tongue river.

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ing, Montana, and North Dakota in accordance with the laws of said respective states.

Conditions.

The provisions herein, and each of them, and in particular the allotments, and each of them, shall be subject to the following conditions:

Allotments herein made, use of in relation to further conservation under program of United States.

(a) For the purpose of determining the engineering feasibility, particularly as to water supply, of any project or program of the United States for the further conservation and utilization of the waters of the Tongue river, particularly the storage of waters in the State of Wyoming for beneficial use in that state, the allotments hereinabove made, and each of them, may be assumed as the measure of an equitable apportionment of the waters of the Tongue river between the states of Wyoming and Montana to satisfy, as of the date of this compact, those established rights for beneficial consumptive uses which are exercised beneficially and which are valid under the laws of the states of Wyoming or Montana, as the case may be.

Provisions and allotments become effective, when.

(b) Such provisions and allotments shall become operative either ten (10) years from and after the date that this compact is ratified by the congress; or on June 15 of the year in which water is available for release through any adequate distributary system, other than the stream bed, from the Tongue river reservoir of the Montana water conservation board for beneficial uses in Montana, the amount of water so released, however, shall be equal to at least one-half of the working capacity of such reservoir; or on June 15 of the year in which water is available for release through any adequate distributary system, other than the stream bed, if such be necessary, from any storage reservoir constructed in Wyoming to conserve for beneficial uses in Wyoming the waters of the Tongue river, the amount of water released, however, shall be equal to at least one-half of the working capacity of such reservoir; or whichever of said dates is the earlier.

4. **Powder River (Exclusive of Little Powder River)**

Powder river.

Each day during the period May 1st to September 30th, inclusive, of each year, the first 2,000 acre-feet of mean divertible daily flow of the Powder river, determined at the Wyoming-Montana state line, shall be divided ninety-six and one-half (96½) per cent to Wyoming and three and one-half (3½) per cent to Montana: Provided, that when in the judgment of the compact commission the carriage

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loss in and through the stream bed depletes the divertible flow to such an extent that an unreasonable waste of water would result if Wyoming were regulated to produce such percentage to Montana, then such regulation shall be enforced only to the extent directed by the commission. The next 2,600 acre-feet of mean divertible daily flow shall be divided sixty (60) per cent to Wyoming, and forty (40) per cent to Montana; however, either state may temporarily divert, consume, or store for beneficial use any unused part of the above flows allotted to the other, but no continuing right to such unused flows shall be established thereby. Unappropriated divertible daily flows in excess of 4,600 acre-feet occurring during the period May 1st to September 30th, inclusive, and all presently unappropriated flows occurring during the period October 1st to April 30th, inclusive, of each year, shall be subject to future appropriation for beneficial use within the Yellowstone river basin in Montana, Wyoming, and North Dakota in accordance with the laws of said respective states.

5. Yellowstone River—Main Stem (Near Montana-North Dakota State Line)

During the period May 1st to September 30th, inclusive, of each year, lands within the Yellowstone river basin in Montana and in North Dakota below Intake, Montana, shall be entitled to the beneficial use of the available residual flow of the waters of the Yellowstone river below Intake, Montana, on a pro rata basis of acreage irrigated. Yellowstone river—main stem.

All residual flows of the Yellowstone river below Sidney, Montana, after the states of Montana and Wyoming have made, or may make, full beneficial use of the waters of said stream, is hereby allotted to the State of North Dakota.

B. From time to time following the consummation of this compact, the commission shall re-examine the allocations made under part "A" of this article and shall, after reaching unanimous agreement, make such modifications in these allotments as are fair, just, and equitable, giving consideration among other factors to: Modifications in allotments.

(a) priorities of water rights;
(b) acreage irrigated;
(c) acreage irrigable under existing works; and
(d) potentially irrigable lands.

Provided, that if the commission should fail to reach unanimous agreement as to the modification of any allot- No change without unanimous consent.

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ment provided for in this article, then, as to the stream affected, the allotment then existing shall continue in full force and effect until unanimous agreement thereon be reached; and

Other changes.

Provided further, that changes and amendments that are substantive and are not modifications of allotments as herein provided shall be subject to Article XI.

Waters for domestic and stock use unrestricted.

C. The allocations made herein shall be exclusive of the use of the waters for domestic and stock use, and each signatory state shall be allowed unrestricted use for these purposes, except that no reservoir for such use shall exceed 20 acre-feet in capacity.

Minor irregularities and fluctuations permitted.

Deficiency to be made up when caused by fault of upstream-state water officials.

D. It is recognized that variable climatic conditions, stream flow regulation, the administration of the interstate tributaries in Wyoming and Montana, and other causes will produce diurnal and other unavoidable variations and fluctuations in the stream flows at the interstate measuring stations, and it is agreed that in the performance of provisions of part "A", of this article and subsequent modifications thereof, minor compensating irregularities and fluctuations in the flow shall be permitted; but where any deficiency of the mean daily flow at an interstate measuring station may be occasioned by neglect, error, or failure in the performance of the duty of the upstream-state water officials having charge of the administration of the diversions from the stream, each such deficiency shall be made up within the next succeeding period of 72 hours by delivery of additional flow at the interstate measuring station over and above the amount allotted, sufficient to compensate for such deficiency. Notwithstanding the allocations of this compact, the commission, in its administration, shall direct the regulation of the streams within each of the signatory states to avoid unreasonable carriage losses.

ARTICLE VI

Vested rights recognized.

Present vested rights within each state and between states relating to the beneficial use of the waters of the Yellowstone river system are recognized by this compact and shall be administered by the proper officials of the respective states. All rights to the beneficial use of the waters of the Yellowstone river system, heretofore and hereafter established under the laws of any signatory state, shall be satisfied solely from the portion of the water allotted to

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that state as provided in Article V. All Indian treaty rights pertaining to the waters of the Yellowstone river basin are unaffected by this compact and are excluded therefrom.

ARTICLE VII

Right of lower signatory state.

A. A lower signatory state shall have the right, by compliance with the laws of an upper signatory state, to file application for and receive permits to appropriate and use any waters in the Yellowstone river system not specifically apportioned to or appropriated by such upper state as provided in Article V; and to construct or participate in the construction and use of any dam, storage reservoir, or diversion works in such upper state for the purpose of conserving and regulating water that may be apportioned to or appropriated by the lower state, provided that such right is subject to the rights of the upper state to control, regulate, and use the water apportioned to and appropriated by it; and, provided further, that should an upper state elect, it may share in the use of any such facilities constructed by a lower state to the extent of its reasonable needs upon assuming or guaranteeing payment of its proportionate share of the cost of construction, operation, and maintenance. This provision shall apply with equal force and effect to an upper state in the circumstance of the necessity of the acquisition of rights by an upper state in a lower state.

Claim for an appropriation of water in one state for use in another state, procedure for.

B. Each claim hereafter initiated for an appropriation of water in one signatory state for use in another signatory state shall be filed in the office of the state engineer of the signatory state in which the water is to be diverted, and a duplicate copy of the application including a map showing the character and location of the proposed facilities and the lands to be irrigated shall be filed in the office of the state engineer of the signatory state in which the water is to be used. If a portion or all the lands proposed to be reclaimed are located in a state other than the one in which the water is to be diverted, then, before approval of the application shall be granted, said application shall be checked against the records of the appropriate office of the state in which the water is to be used, and a notation shall be placed thereon by the officer in charge of such records to the effect that the land description does not indicate a conflict with existing water rights. All endorsements shall be placed on both the original and duplicate copies of all such maps filed,

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to the end that the records in both states may be complete and identical.

Appropriations, in which state to be adjudicated.

C. Appropriations may hereafter be adjudicated in the state in which the water is diverted, and where a portion or all of the lands irrigated are in another signatory state, such adjudications shall be confirmed in that state by the proper authority. Each adjudication is to conform with the laws of the state where the water is diverted and shall be recorded in the county and state where the water is used.

ARTICLE VIII

Easements and rights-of-way.

A lower signatory state shall have the right, upon compliance with the laws of an upper signatory state, to acquire in such upper state by purchase, or through exercise of the power of eminent domain, such easements and rights of way for the construction, operation, and maintenance of pumping plants, storage reservoirs, canals, conduits, and appurtenant works as may be required for the enjoyment of the privileges granted herein to such lower state. This provision shall apply with equal force and effect to an upper state in the circumstance of the necessity of the acquisition of rights by an upper state in a lower state.

ARTICLE IX

Construction to facilities to be subject to laws of state in which it is done.

Should any facilities be constructed by a lower signatory state in an upper signatory state under the provisions of Article VII, the construction, operation, repairs, and replacements of such facilities shall be subject to the laws of the upper state. This provision shall apply with equal force and effect to an upper state in the circumstance of the necessity of the acquisition of rights by an upper state in a lower state.

ARTICLE X

Water imported into Yellowstone river basin or from one tributary to another.

In the event water from another drainage basin shall be imported into the Yellowstone river basin or transferred from one tributary basin to another by the United States, Montana, North Dakota, or Wyoming, or any of them jointly, the state having the right to the use of such water shall be given proper credit therefor in determining its share of the divertible flows apportioned in accordance with Article V herein.

ARTICLE XI

Duration of compact.

The provisions of this compact shall remain in full force and effect until amended in the same manner as it is re-

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quired to be ratified to become operative as provided in Article XVII.

ARTICLE XII

Unanimous consent necessary to action.

No action taken by the compact commission shall be valid except by the unanimous consent of the commissioners representing the signatory states.

ARTICLE XIII

Termination of compact.

This compact may be terminated at any time by unanimous consent of the signatory states, and upon such termination all rights then established hereunder shall continue unimpaired.

ARTICLE XIV

Right to court action not limited.

Nothing in this compact shall be construed to limit or prevent any state from instituting or maintaining any action or proceeding, legal or equitable, in any federal court or the United States supreme court, for the protection of any right under this compact or the enforcement of any of its provisions.

ARTICLE XV

Construction of compact in relation to Indian treaties.

Nothing in this compact shall be construed as affecting any rights to the use of the waters of the Big Horn or Wind river and the Little Horn river and their tributaries, existing by virtue of Indian treaties.

ARTICLE XVI

No general principle or precedent established for other interstate streams.

The physical and other conditions characteristic of the Yellowstone river and peculiar to the territory drained and served thereby and to the development thereof, have actuated the signatory states in the consummation of this compact, and none of them, nor the United States by its consent and approval, concedes thereby the establishment of any general principle or precedent with respect to other interstate streams.

ARTICLE XVII

Effective date.

This compact shall become operative when approved by the legislature of each of the signatory states and consented to and approved by the congress of the United States.

ARTICLE XVIII

Rights of United States not affected.

Nothing in this compact shall be deemed:

(a) To impair or effect any rights or powers of the United States, its agencies, or instrumentalities, in and to

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the use of the waters of the Yellowstone river basin nor its capacity to acquire rights in and to the use of said waters;

Property of United States not subjected to taxation.

(b) To subject any property of the United States, its agencies, or instrumentalities to taxation by any state or subdivision thereof, nor to create an obligation on the part of the United States, its agencies, or instrumentalities, by reason of the acquisition, construction, or operation of any property or works of whatsoever kind, to make any payments to any state or political subdivision thereof, state agency, municipality, or entity whatsoever in reimbursement for the loss of taxes;

(c) To subject any property of the United States, its agencies, or instrumentalities, to the laws of any state to an extent other than the extent to which these laws would apply without regard to the compact.

ARTICLE XIX

Severability.

Should a court of competent jurisdiction hold any part of this compact to be contrary to the constitution of any signatory state or of the United States, all other severable provisions of this compact shall continue in full force and effect.

IN WITNESS WHEREOF the commissioners have signed this compact in quadruplicate original, one of which shall be filed in the archives of the department of state of the United States of America and shall be deemed the authoritative original, and of which a duly certified copy shall be forwarded to the governor of each signatory state.

Done at the city of Billings in the State of Montana this 18th day of December, in the year of Our Lord, one thousand nine hundred and forty-four.

Commissioners for the State of Montana:

/s/ Fred E. Buck	*/s/ E. E. Tiffany*
(Fred E. Buck)	(E. E. Tiffany)
/s/ W. E. Ogden	*/s/ D. M. Manning*
(W. E. Ogden)	(D. M. Manning)
/s/ P. F. Leonard	*/s/ Chester E. Onstad*
(P. F. Leonard)	(Chester E. Onstad)
/s/ H. W. Bunston	*/s/ Paul J. Hagan*
(H. W. Bunston)	(Paul J. Hagan)
/s/ Wesley A. D'Ewart	*/s/ Axel Persson*
(Wesley A. D'Ewart)	(Axel Persson)

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Commissioners for the State of North Dakota:

/s/ J. J. Walsh	*/s/ M. M. Millhouse*
(J. J. Walsh)	(M. M. Millhouse)
/s/ Kenneth W. Simons	*/s/ Frank P. Whitney*
(Kenneth W. Simons)	(Frank P. Whitney)
/s/ Einar H. Dahl	*/s/ John T. Tucker*
(Einar H. Dahl)	(John T. Tucker)

Commissioners for the State of Wyoming:

/s/ L. F. Thornton	*/s/ David G. Anderson*
(L. F. Thornton)	(David G. Anderson)
/s/ John Gonin	*/s/ W. B. Snyder*
(John Gonin)	(W. B. Snyder)
/s/ Earl Bower	*/s/ Mark N. Partridge*
(Earl Bower)	(Mark N. Partridge)
/s/ Ray Bower	*/s/ L. C. Bishop*
(Ray Bower)	(L. C. Bishop)
(R. E. McNally)	(H. J. Paustian)
	/s/ W. R. Holt
(E. J. Johnson)	(W. R. Holt)
/s/ Ernest J. Goppert	
(Ernest J. Goppert)	

I have participated in the negotiation of this compact and intend to report favorably thereon to the congress of the United States.

/s/ Harold D. Comstock
Harold D. Comstock
Representative of the United States of America.

Compact subject to approval by state legislatures and by congress.

Section 2. Said compact shall not be binding or obligatory upon any of the high contracting parties thereto unless and until the same shall have been approved by the legislature of each of the said states and by the congress of the United States. The governor of Montana shall give notice of the ratification and approval of said compact by the twenty-ninth legislative assembly of the State of Montana to the governors of each of the remaining signatory states and to the president of the United States.

Approved February 22, 1945.

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CHAPTER 86

An Act to Amend Sections 1783 As Amended by Chapter 111 of the Twenty-seventh Legislative Assembly, 1784, 1785, 1786, 1787, 1788 and 1800 of the Revised Codes of Montana of 1935, Relating to the Powers and Duties of the State Highway Commission, and Repealing All Acts and Parts of Acts in Conflict Therewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 1783, R. C. 1935, as amended, further amended.

Section 1. That Section 1783 of the Revised Codes of Montana, 1935, as amended by Chapter 111 of the twenty-seventh legislative assembly, be, and the same is hereby amended to read as follows:

"Section 1783. **State Highway Commission—Creation—Salary—Bond—Term of Office.** There is hereby created a commission to be known as the state highway commission to consist of *five (5)* members to be appointed by the governor and each of said members shall be a citizen of the United States and of the State of Montana, and may be removed by the governor at any time for cause.

State highway commission created.

Area of districts of which the members respectively shall be residents.

One of said members shall be a bona fide resident of a district consisting of the following counties: Lincoln, Flathead, Sanders, Lake, Mineral, Missoula, Ravalli, Granite, Lewis and Clark, Jefferson and Broadwater; and one shall be a bona fide resident of a district consisting of the following counties: Powell, Deer Lodge, Silver Bow, Beaverhead, Madison, Gallatin, Meagher, Wheatland, Park and Sweet Grass; and one shall be a bona fide resident of a district consisting of the following counties: Glacier, Toole, Liberty, Hill, Blaine, Pondera, Teton, Chouteau, Cascade, and Judith Basin; and one shall be a bona fide resident of a district consisting of the following counties: Fergus, Petroleum, Garfield, Phillips, Valley, McCone, Prairie, Dawson, Wibaux, Richland, Roosevelt, Daniels and Sheridan; and one shall be a bona fide resident of a district consisting of the following counties: Golden Valley, Stillwater, Carbon, Big Horn, Yellowstone, Musselshell, Rosebud, Treasure, Custer, Powder River, Carter, and Fallon. Provided that said districts are herein referred to only for the purpose of defining the sections of the State of Montana from which the members of said commission shall be appointed.

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Each commissioner shall hold office for the term of four (4) years and until his successor is appointed and qualified and shall receive as compensation to be paid out of the highway fund, the sum of ten dollars ($10.00) per diem for each day actually engaged in the duties of his office, including his time of travel between his home and place of employment of such duties, together with his traveling expenses while away from his home in the performance of the duties of his office. Provided, however, that said commissioners herein provided for, shall not be appointed until such time as a vacancy exists in said commission as constituted at this time.

Terms of office of commissioners.

The commission shall choose one of its own number as the chairman and shall have the power to appoint an engineer *to be known as the "state highway engineer"* and other employees of the commission, *and shall fix the salaries of such engineer and other employees.*

Chairman, engineer and other employees.

Each commissioner shall give bond conditioned for the faithful performance of his duties in the sum of ten thousand dollars ($10,000.00)."

Bonds of commissioners.

Section 2. That Section 1784 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Sec. 1784, R. C. 1935, amended.

"Section 1784. **Meetings—Engineer—Duties and Bond.** The state highway commission shall meet at least once each month for the purpose of transacting its business, including the consideration of claims and the letting of contracts; a *majority* of the commission shall constitute a quorum for the transaction of business. *The state highway engineer* shall perform any acts or duties relating to the office of the highway commission which said commission may, from time to time, impose upon him; such engineer shall take and file the constitutional oath of office before entering the performance of his duties; he shall give a bond in such sum as the commission may determine and may be removed by the commission at any time for cause."

Meetings.

State highway engineer, duties of.

Section 3. That Section 1785 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Sec. 1785, R. C. 1935, amended.

"Section 1785. **Duties of Commission—Reports.** *The state highway commission shall maintain and preserve all*

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Duties of commission.

its records in its office at the capitol; said office shall be kept open at such times as the business of the commission shall require. *The commission* shall file and safely keep a record of all proceedings and orders pertaining to the matters under its direction and copies of all plans, specifications, contracts, estimates and official acts. The *commission* shall prepare and submit to the governor on or before the fifteenth day of each month a report of the work constructed, under construction, and proposed for construction and the progress made during the preceding month, and shall make recommendations as to the needed improvements and their estimated cost."

Sec. 1786, R. C. 1935, amended.

Section 4. That Section 1786 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

"Section 1786. **Compilation of Statistics—Investigation and Consultation.** In addition to *its* other powers and duties, the *state highway commission* shall compile statistics relative to public highways throughout the state, and shall collect all information in regard thereto deemed expedient. *It* shall investigate and determine upon various methods of road construction adapted to different sections of the state, and as to the best methods of construction and maintenance of roads, bridges, road markers and shall investigate and determine upon such other information relating thereto as *it* shall deem appropriate and necessary. *The highway commission and the state highway engineer* may be consulted at all reasonable times by county officers having care and authority over highways and bridges and shall advise such officers relative to the construction, repair, altering or maintenance of the same, and shall furnish such other information and advice as may be requested by persons interested in the construction, maintenance and marking of public highways, and shall at all times lend their aid in promoting highway improvement throughout the state."

Compilation of statistics.

Investigation and consultation.

Sec. 1787, R. C. 1935, amended.

Section 5. That Section 1787 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

County commissioners to furnish information.

"Section 1787. **County Commissioners to Furnish Information.** The county commissioners and road supervisors of any county, and all other officers who now have or may hereafter have by law the care and supervision of the

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public highways and bridges, shall, from time to time, upon the written request of the state highway *commission*, furnish all available information in connection with the building and maintenance of the state highways and bridges in their respective districts or counties."

Sec. 1738, R. C. 1935, amended.

Section 6. That Section 1788 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Commission to prescribe necessary rules.

"Section 1788. *Commission* **to Prescribe Certain Rules —Designation of State Highways.** The state highway *commission* shall have power, and it shall be *its* duty, to formulate all rules and regulations necessary for the government of the state highway commission and it is hereby authorized to make all rules necessary to comply with the provisions of the federal aid road act of congress, approved July 11, 1916, and all other acts granting aid for public highways, and to obtain for the State of Montana the full benefit of such acts. The state highway commission is hereby authorized to, and shall, in conjunction with the board of county commissioners of the several counties in the state, designate such public roads in the state as shall be classed as state highways and subject to improvements under the provisions of said federal aid road act of congress, and the state highway commission in conjunction with the board of county commissioners shall also formulate necessary rules and regulations for the construction, repair, maintenance and marking of state highways and bridges, and may provide for local supervision in such cases."

Designation of state highways.

Sec. 1800, R. C. 1935, amended.

Section 7. That Section 1800 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Presentation and payment of claims.

"Section 1800. **Presentation and Payment of Claims.** All accounts and expenditures shall be certified by the *state* highway *engineer*, approved by the state board of examiners, and paid by the state treasurer upon warrants drawn by the state auditor out of the proper funds created by this act. In submitting claims for payment as herein provided, the state highway commission shall certify whether the warrant is to be drawn against the state highway fund or the state highway trust fund, and if the claim is against the state highway trust fund, it shall state the particular project to which the payment will apply. The state treasurer is hereby authorized to receive all warrants drawn by the

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United States government in accordance with the provisions of any act of congress, and to credit the same to the state highway trust fund.

Accounting system for each project.

The state highway commission shall provide a system of accounting for each project considered which shall show the amount of money received therefor, and also an itemized statement of the expenses in connection therewith. Such system shall be approved by the state board of examiners."

Section 8. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 9. This act shall be in full force and effect from and after its passage and approval.

Approved February 22, 1945.

CHAPTER 87

An Act to Amend Section 2396.3 of the Revised Codes of Montana, 1935, As Amended by Chapter 102 of the Session Laws of Montana, 1937, As Amended by Chapter 213 of the Session Laws of Montana, 1939, As Amended by Chapter 175 of the Session Laws of Montana, 1943, Relating to the Method for the Determination and Distribution of the State Highway Fund for Construction Purposes.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 2396.3, R. C. 1935, as amended, further amended.

Section 1. That Section 2396.3 of the Revised Codes of Montana, 1935, as amended by Chapter 102 of the Session Laws of Montana, 1937, as amended by Chapter 213 of the Session Laws of Montana, 1939, as amended by Chapter 175 of the Session Laws of Montana, 1943, be, and the same is hereby amended to read as follows:

Allotment of construction moneys from state highway fund.

"Section 2396.3. At the start of the fiscal year beginning July 1, 1937, and ending June 30, 1938, the state highway commission shall compute from its records the percentage of incompleted mileage within each of said districts which each district respectively bears to the total incompleted mileage of said federal highway system within this state at that time, and for that fiscal year the state highway commission shall use the percentages so computed in al-

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lotting to each of said districts construction moneys from the state highway fund as defined and provided by section 2396.2. At the beginning of each fiscal year thereafter the same procedure shall be carried out, and the actual respective percentages of incompleted mileage in each district as so computed and determined at the beginning of each fiscal year shall be used in allotting said moneys to said districts for that fiscal year. As a basis for the determination of the amount of incompleted mileage of said federal highway system in this state for each fiscal year, the state highway commission shall adopt as the criterion the current definition, as prescribed by the *public roads administration,* for a fully and adequately completed federal highway in this state. This criterion shall be considered as a 100% completed federal highway; and federal highway mileage which is only partially completed under the application of this criterion, shall be considered as only partially completed on a percentage basis, this to be determined from the relative estimated percentage costs of construction already performed and of additional construction which must be performed to bring said mileage up to the standard of said criterion.

Basis for determination of amount of incompleted mileage of federal highway system.

The state highway commission may vary the expenditures made in any district under the provisions of this act to the extent of fifteen percent (15%) above the amount of money allocated to such district in any year, *provided that the allocation of construction money to such district for the next succeeding fiscal year shall be decreased by an amount equal to such increased expenditures, and the amount so deducted shall be allocated to the other districts on the basis of the percentages established in the year that the increased expenditures were made."*

Commission may vary expenditures.

Proviso, as to compensatory allocations.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Effective date.

Approved February 22, 1945.

CHAPTER 88

An Act to Amend Sections 2851, 2852, and 2863 of the Revised Codes of Montana, 1935; Relating to Workmen's

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Compensation and to Include Public Officers, Police and Peace Officers, and Other Persons Not Included in the Lists of Hazardous Occupations Enumerated in Said Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 2851, R. C. 1935, amended.

Section 1. That Section 2851 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Miscellaneous work.

"2851. **Miscellaneous Work.** Operating stock-yards, with or without railroad entry; packing houses; wharf operations; artificial ice and refrigerating or cold-storage plants; tanneries; electric systems not otherwise specified; theatre stage employees, including moving-picture machine operators; fireworks manufacturing, powder works, *city and town firemen, highway patrolmen, police officers and all peace officers; also all public officers and their deputies, assistants and employees.*"

Sec. 2852, R. C. 1935, amended.

Section 2. That Section 2852 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Hazardous occupations not enumerated or hereafter arising.

"2852. **Hazardous Occupations Not Enumerated or Hereafter Arising.** If there be or arise any hazardous occupation or work other than hereinbefore enumerated, it shall come under this act and its terms, conditions, and provisions as fully and completely as if hereinbefore enumerated. *The enumeration of certain works and occupations as hazardous shall not exclude from the provisions of this act any other occupation actually hazardous, whether enumerated or not. All other works and occupations hazardous in their nature shall be included within the terms of this act. No employment or occupation shall be excluded from the benefits of this act as a hazardous occupation because it is not of the same class as other occupations described as hazardous in this statute.*"

Sec. 2863, R. C. 1935, amended.

Section 3. That Section 2863 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

"Employee" and "workman" defined.

"Section 2863. **"Employee" and "Workman" Defined.** "Employee" and "workman" are used synonymously and mean every person in this state, including a contractor other than an "independent contractor" who is in the service of an employer as defined by the preceding section, under any

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appointment or contract of hire, expressed or implied, oral or written, including aliens and also including minors, whether lawfully or unlawfully employed, and all of the elected and appointed paid public officers and officers and members of boards of directors of quasi-public or private corporations while rendering actual service for such corporations for pay, *including city and town firemen, highway patrolmen, police officers, county sheriffs, deputy sheriffs, constables, truant officers and all peace officers, also all public officers and their deputies, assistants and employees,* but excluding any person whose employment is both casual and not in the courses of the trade, business, profession or occupation of his employer, unless such employer has elected to be bound by the provisions of the compensation law, in which case all employees are included, whether their employment is casual or otherwise, and also excluding any employee engaged in household or domestic service."

Repealing clause.

Section 4. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 5. This act is hereby deemed and declared an emergency act and shall be in full force and effect immediately upon its passage and approval.

Approved February 22, 1945.

CHAPTER 89

An Act to Amend Section 3614 Revised Codes of Montana, 1935, As Amended by Chapter *112* of the Session Laws of 1939, Relating to Fees for Disinfecting, Fumigating or Inspecting Nursery Stock, Fruits or Vegetables, Providing for the Fixing of the Same by the Commissioner of Agriculture After Hearing; Providing for Approval of Such Charges by State Board of Examiners *and* Repealing All Acts in Conflict *Herewith.*

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 3614, R. C. 1935, as amended, further amended.

Section 1. That Section 3614 Revised Codes of Montana, 1935, as amended by Chapter *112,* Session Laws, *1939,* be, and the same is hereby amended to read as follows:

"Section 3614. It shall be the duty of every person or persons, corporation or corporations, who sell or deliver to

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Duty of seller of nursery stock to notify commissioner of agriculture or nearest horticultural inspector.

any person or persons, corporation or corporations, any trees, plants, vines, scions, grafts, fruits or vegetables not previously inspected under the provisions of this act, to notify the commissioner of agriculture, or the nearest horticultural inspector of such sale or deliver. It shall be the duty of the inspector receiving such notice to inspect the said trees, plants, grafts, scions, vines, fruits or vegetables, as soon thereafter as practicable, and if the same be found free from any and all diseases and pests, he shall so certify and attach a certificate of inspection to each lot or bill of trees, plants, scions, grafts, vines, fruits or vegetables, so inspected. But if any of the trees, grafts, scions, vines, plants, fruits or vegetables so inspected shall be found to be diseased or infested with any of the pests mentioned in Section 3626, Revised Codes of Montana, 1935, then the inspector shall order the disinfection or destruction of any of said trees, grafts, scions, vines, plants, fruits or vegetables, so diseased or infested, together with all boxes, wrapping or packing pertaining thereto; provided, that when any fruit or nursery stock, or vegetables is condemned by any inspector, said inspector shall notify the owner thereof, who may appeal to the commissioner of agriculture, whose decision shall be final; and charge and collect the sum of ten ($10.00) dollars for the inspection of each carload of said nursery stock and a proportionate sum for less than carload lots, as fixed by the commissioner; provided, that the commissioner of agriculture shall have power to designate certain places as quarantine stations where all nursery stock brought into the state shall be inspected and disinfected. The charge for disinfecting, fumigating or *inspection* of nursery stock, fruits and vegetables shall be fixed by the commissioner of agriculture.

Duty of inspector.

Charges and fees.

Before fixing the charge for disinfecting, fumigating or inspecting nursery stock, fruits or vegetables, the commissioner of agriculture shall give notice of a hearing, which notice shall be published once in each of three newspapers of general circulation in the state, and shall state the time and place of said hearing. The charge so fixed shall not be effective until approved by the state board of examiners.

Notice of hearing and approval of charge.

The inspector shall collect all such fees and shall not give certificate of inspection until the fees are paid."

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Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved February 22, 1945.

CHAPTER 90

An Act to Amend Section 6014.31 of the Revised Codes of 1935 As Amended by Chapter 23 of the Laws of the Twenty-seventh Legislative Assembly, Relating to Limitation of Loans On Real Estate by Banks, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 6014.31 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows: Sec. 6014.31, R. C. 1935, amended.

"6014.31. Any commercial bank organized under the laws of the State of Montana may make real estate loans, secured by first liens upon improved real estate, including improved farm land and improved business and residential properties and may purchase any obligation so secured when the entire amount of such obligation is sold to the bank. Provided that, the amount of any such loan hereafter made shall not exceed fifty per centum (50%) of the appraised value of the real estate offered as security, and no such loan shall be made for a longer period than five (5) years, except that: Commercial banks may make real estate loans. Limitation of amount of loan.

(1) Any such loan may be made in an amount not to exceed sixty per centum (60%) of the appraised value of the real estate offered as security and for a term not longer than ten (10) years if such loan is secured by an amortized mortgage, deed of trust or other such instrument, under the terms of which the installment payments are sufficient to amortize forty per centum (40%) or more of the principal of the loan within a period of not more than ten (10) years; and When a loan up to 60% of value of security may be made.

(2) No such commercial bank shall make such loans in an aggregate sum in excess of the amount of its capital stock paid in and unimpaired plus the amount of its unimpaired surplus or in excess of sixty per centum (60%) of the amount of its time and saving deposits, whichever is the greater. Limitation of amount of loan by amount of capital stock and surplus.

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Loans for six months or less.

Loans made to finance the construction of residential or farm buildings and having maturities of not to exceed six (6) months, whether or not secured by a mortgage or a similar lien on real estate upon which the residential or farm building is being constructed, shall not be considered as loans secured by real estate within the meaning of this act, but shall be classed as ordinary commercial loans, provided that no commercial bank shall invest in or be liable on any such loans in an aggregate amount in excess of fifty per centum (50%) of its actually paid in and unimpaired capital.

Exception as to certain loans discounted or loaned against by federal reserve bank or participated in by reconstruction finance corporation.

Loans made to establish rural or commercial businesses which are in whole or in part discounted or loaned against as security by a federal reserve bank for any part of which a commitment shall have been made by a federal reserve bank or in which the Reconstruction Finance Corporation cooperated or purchases a participation in, shall not be subject to the restrictions or limitations of this act upon loans secured by real estate, provided any commercial bank in this state shall from time to time have the same authority to make loans upon real estate as may be given by acts of congress of the United States or the federal reserve system to national banks or bank members of the federal reserve system.

Renewal or extension of existing loans.

(3) The foregoing limitations and restrictions shall not prevent the renewal or extension of loans heretofore made and shall not apply to real estate loans which are insured under the provisions of any act of the congress of the United States; and said limitations and restrictions shall not apply to the making, extension or renewal of any loans which are made under subchapter II of the act of congress, known as the servicemen's readjustment act of 1944, or any amendment thereof or supplement thereto, as to any part of such loans.

Other loans excepted.

Second mortgages.

These provisions, however, shall not prevent any bank from taking another and immediately subsequent mortgage or deed of trust when it already holds a first mortgage or deed of trust thereon on such real estate, nor from accepting a second lien on real estate to secure the re-payment of a debt previously contracted in good faith; nor shall it prevent subsequent liens of any kind from being taken to secure the payment of a debt previously contracted in good faith, when, in the judgment of the directors of such bank, such subsequent liens are necessary further to secure the

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payment of any debts and save such bank from loss; provided, the term 'commercial bank' as used in this section, shall mean a bank organized to do the business specified in sections 6014.4 to 6014.8 of this code, only."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 23, 1945.

CHAPTER 91

An Act to Amend Section 1575.1 and Section 1575.2 of the Revised Codes of Montana, 1935, Relating to the Creation of the State Library Extension Commission; the Composition of Said Commission; the Employment of Secretary and Assistants and Providing for the Payment of Expenses of Said Secretary, Assistants and the Commission and Adding Another Section Designated as Section 1575.3 Relating to the Powers and Duties of the Library Extension Commission and Adding Another Section to be Designated as Section 1575.4 Relating to the Authorization of the Library Extension Commission to Accept and Administer Funds or Property from Federal Government and Other Agencies and Designating the Commission as the Administrative Agency for Moneys or Property Received from Any Agency, Public or Private.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 1575.1 and Sec. 1575.2, R. C. 1935, as amended, further amended.

Section 1. That Section 1575.1 and Section 1575.2 of the Revised Codes of Montana of 1935, be, and the same are hereby amended to read as follows:

State library extension commission created.

"1575.1. **State Library Extension Commission Created.** A commission is hereby created to be known as the state library extension commission. *This commission shall consist* of the librarian of the state university *as chairman,* the state superintendent of public instruction, *ex-officio member, and three members* to be appointed by the governor, *who shall serve one, two and three years respectively. As these terms expire, annually thereafter one person shall*

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be appointed, for a term of three years. The members of said *commission* shall receive no compensation for their services except their actual and necessary traveling expenses."

Sec. 1575.2, R. C. 1935, amended.

Section 2. That Section 1575.2 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Employment of secretary and assistants.

"1575.2. **Employment of Secretary and Assistants.** *The commission shall employ a secretary who shall be a trained and experienced librarian, not a member of the commission, for such compensation as the commission may deem adequate, and who shall perform the usual duties of a secretary and such other duties as may be assigned by the commission, to serve at the will of the commission. The commission may also employ such other assistants as shall be required for the performance of the commission's work. In addition to their salaries, the secretary and assistants shall be allowed their actual expenses while absent from the commission office in the service of the commission."*

Sec. 1575.3 added.

Section 3. That a new section shall be added to the code to be designated section 1575.3.

Powers and duties of commissioners.

"1575.3. *Powers and Duties of the Commission. The work of the commission shall be to give assistance and advice to all libraries in the state and to all communities in the state which may purpose to establish libraries, as to the best means of establishing and administering such libraries, or improving established libraries, and aiding in the establishment of traveling libraries; the commission shall act as a state board of vocational standards and library examiners and perform all the duties of said board as provided in section 4565; obtain, each year, from all libraries in the state, reports showing the condition, growth, and development and such other facts and statistics as may be deemed of public interest by the commission; the commission shall make a biennial report to the governor of the state on or before the first day of January covering the work of the commission, and incorporating reports of libraries in the state."*

Sec. 1575.4 added.

Section 4. That a new section shall be added to the code to be designated section 1575.4.

Acceptance of moneys or property.

"1575.4. *Authorization of Commission to Accept and Administer Funds or Property from Federal Government and Other Agencies. The commission is hereby designated*

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a state library administrative agency and is empowered to accept and administer any moneys or property appropriated for or granted to it by any agency, public or private, for library service in the state, including the federal government, provided that the acceptance of such funds or property from the federal government does not entail any degree of federal control.''

Repealing clause.

Section 5. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 6. This act shall be in full force and effect upon its passage and approval.

Approved February 25, 1945.

CHAPTER 92

An Act to Amend Section 10652 of the Revised Codes of Montana of 1935, Relative to the Manner of Taking Depositions.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 10652, R. C. 1935, amended.

Section 1. That Section 10652 of the Revised Codes of Montana of 1935 be and the same is hereby amended to read as follows:

Manner of taking depositions.

''Section 10652. Either party may attend the examination and put such questions, direct and cross, as may be proper. The deposition, when completed, must be carefully read to the witness, *or the witness must read it,* and *the same may be* corrected by *the witness* in any particular, if desired; it must then be subscribed by the witness, certified by the judge or officer taking the deposition, inclosed in an envelope or wrapper, sealed, and directed to the clerk of the court in which the action is pending, or to such persons as the parties in writing may agree upon, and either delivered by the judge or officer to the clerk or such person, or transmitted through the mail, or by some safe private means of conveyance; and thereupon such deposition may be used by either party upon the trial or proceeding against any party giving or receiving the notice, subject to all legal exceptions; but, if the parties attend at the examination, no objection to the form of an interrogatory shall be made at the trial, unless the same was stated at the time of the examination. If the deposition be taken under subdivisions 2, 3,

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and 4, of section 10645, proof must be made at the trial that the witness continues absent or infirm, or is dead. The deposition thus taken may be also read in case of the death of the witness."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 23, 1945.

CHAPTER 93

An Act to Amend Section 7015 of the Revised Codes of Montana of 1935, Relating to Devises and Bequests for Charitable and Benevolent Purposes, and Providing for Devises and Bequests Made Within Thirty (30) Days Prior to the Death of the Testator.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 7015, R. C. 1935, amended.

Section 1. That Section 7015 of the Revised Codes of Montana of 1935 be and the same is hereby amended to read as follows:

Restriction to devise for charitable purposes.

"Section 7015. **Restriction to Devise for Charitable Purposes.** No estate, real or personal, shall be bequeathed or devised to any charitable or benevolent society or corporation, or to any person or persons in trust for charitable uses, except the same be done by *will* duly executed at least thirty (30) days before the decease of the testator, and if so made at least thirty (30) days prior to such death, such devise or legacy, and each of them, shall be valid; provided that the prohibition contained in this section shall not apply to cases where not more than one-third (1/3) of the estate of the testator shall be bequeathed or devised for charitable or benevolent purposes, *and provided further, that if any such devise or bequest be made in a will executed within thirty (30) days prior to such death and be for more than one-third (1/3) of the estate of the decedent, the same shall be void as to the excess over one-third (1/3), but as to that only.*"

Effective date.

Section 2. This act shall be in full force and effect on and after its passage and approval.

Approved February 23, 1945.

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CHAPTER 94

An Act to Amend Section 2434 Revised Codes of the State of Montana, 1935, Relating to the Procuring of a License to Operate Circuses, Side Shows, Carnivals, Menageries, Wild West Shows, and Tent Shows for Private Gain.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 2434 Revised Codes of Montana, be, and the same is hereby amended to read as follows: Sec. 2434, R. C. 1935, amended.

"Section 2434. **Billiard Tables—Pawnbrokers—Theaters—Intelligence Offices—Shooting Gallery.** License must be obtained for the purposes hereinafter named, for which the county treasurer must require payment as follows: License required.

1. Each proprietor of a billiard, pool, or bagatelle table not kept exclusively for family use, for each table three dollars and seventy cents per quarter; and for a bowling alley, five dollars per quarter for each alley; but no license must be granted for a term less than three months. Billiard table.

2. The manager or lessee of every theater (not a variety or concert theater) one hundred dollars per annum; except that in towns of a population of three thousand five hundred or less, in cases where no monthly license is paid, a license of two dollars for each single performance must be paid; for each single exhibition of opera or concert singer (not exhibited in any theater where a yearly license is paid), three dollars; for minstrels, legerdemain, or shows not herein provided for, five dollars for each single performance (when not in a theater where a yearly license is paid); for each variety or concert theater, whether an admittance fee is charged or not, seventy-five dollars per month; for every circus or menagerie, including side-shows, one hundred and twenty-five dollars per day; but no license must be collected from any amateur exhibition or concert for school or charitable or religious purposes, from any county, district or state agricultural fairs, rodeo associations, or from any veterans organizations not conducted for private gain, Theater. Circus.

Provided the county treasurer shall not issue any license for circuses, side-shows, carnivals, menageries, wild west shows, animal shows or tent shows to be held or performed within a period of thirty days just prior to or during the Time for circuses, etc., restricted.

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holding of any local, county, district or state fair or rodeo without first obtaining the written consent of the board of county commissioners of the county where application is made for such licenses to operate such shows.

Pawnbroker.

3. For each pawnbroker, fifty-five dollars per quarter.

Intelligence office.

4. For each keeper of an intelligence office, ten dollars per quarter.

Shooting gallery.

5. For each keeper of a shooting gallery, for gain, fifteen dollars per quarter."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 23, 1945.

CHAPTER 95

An Act to Provide That Tracts or Parcels of Land for the Purposes Set Forth in Section 4978, Revised Codes of Montana, 1935, Shall be Deemed Contiguous to Cities or Towns, Even Though Such Tracts or Parcels of Land May be Separated from Such City or Town by a Street or Other Roadway, Irrigation Ditch, Drainage Ditch or a Strip of Unplatted Land Too Narrow or Too Small to be Platted.

Be it enacted by the Legislative Assembly of the State of Montana:

Land, when deemed contiguous for purpose of annexation to a city or town.

Section 1. That tracts or parcels of land, proposed to be annexed to a city or town, under the provision of Section 4978 of the Revised Codes of Montana, 1935, shall be deemed contiguous to such city or town, even though such tracts or parcels of land may be separated from such city or town by a street or other roadway, irrigation ditch, drainage ditch, or a strip of unplatted land too narrow or too small to be platted.

Repealing clause.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 23, 1945.

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CHAPTER 96

An Act to Amend Section 12508 of the Revised Codes of Montana, 1935, as Amended by Section 6 of Chapter 156, Session Laws of Montana, 1943, Relating to Releases on Parole from the Montana State Industrial School and Providing for a Method of Granting Releases on the Recommendation of the President of the School to the Executive Board Thereof; and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 12508 of the Revised Codes of Montana, 1935, as amended by Section 6 of Chapter 156 of the Session Laws of Montana, 1943, be, and the same is hereby amended to read as follows:

Sec. 12508 R. C. 1935, as amended, further amended.

"Section 12508. **Releases on Parole.** The Executive board, on recommendation of the president of the school may release a boy on trial or parole, but in all cases where a boy is released on trial or parole, he must, at stated intervals, report his conduct to the president and present certificates of good behavior, whereupon his leave or parole may be extended, or the executive board, by a unanimous vote, may grant him a full and unconditional discharge and order him finally released from the custody and control of such school. It shall be the duty of the president to recall and return to the school any boy who may not be conducting himself properly, or who may not have a suitable home, and for such purpose such industrial school shall have sole custody and control over any boy so paroled until he shall have reached the age of twenty-one (21) years, or until he shall be finally discharged."

Release on parole.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved February 23, 1945.

CHAPTER 97

An Act to Provide for Term, Life, Endowment and Annuity Benefits, and Confirmations Thereof, on the Lives of Children; in Fraternal Benefit Societies, Providing for Contributions; Standards for Such Benefits and for Re-

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serves to be Maintained, and the Funds from Which Benefits Shall be Paid, and Repealing the Following Sections of the Revised Codes of Montana of 1935: Sections 6339 Relating to Death and Annuity Benefits on Children; 6340 Relating to Medical Examination Required; 6341 Relating to Requirements for Reserve; 6342 Relating to Financial Statements to Commissioner; 6343 Relating to Payment Expenses or General Fund; and 6344 Relating to Continuation of Certificate; and Repealing Chapter 22, Session Laws of 1939, Relating to Death and Annuity Benefits; and All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Benefits on lives of children, may be provided by fraternal benefit societies.

Section 1. **Benefits on Lives of Children.** Every fraternal benefit society authorized to do business in this state may provide in its constitution or by-laws, in addition to other benefits provided for therein, for term, life, endowment and annuity benefits, and combinations thereof, on the lives of children under twenty-one years of age at time of application therefor, upon the application of some adult person, as the by-laws, rules, or regulations may provide. Every such society may, at its option, organize and operate branches for such children, and membership in local lodges, and initiation therein shall not be required of such children nor shall they have a voice in the management of the society.

Contributions, based upon what mortality tables.

Section 2. The contributions to be made for death benefits under all juvenile certificates or contracts issued after December thirty-first, nineteen hundred forty-five, shall be based upon the 1941 standard industrial mortality table and interest at not more than three and one-half per cent per annum, or the American experience table of mortality with Craig's or Buttolph's extension thereof, with interest assumption of not more than four per cent per annum, or the American men ultimate table of mortality with Bowerman's extension thereof, and interest at three and one-half per cent per annum, or upon any other standard approved by the commissioner of insurance.

Reserve required.

Section 3. Every society issuing such benefit certificates or contracts shall maintain on all such certificates or contracts not less than the reserve required by the standard of mortality and interest adopted by the society for computing contributions.

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Powers of societies.

Section 4. Every society issuing such benefit certificates or contracts shall have the right to provide in its by-laws, rules or regulations, for payments on account of the society's expense or general fund, which payments may be mingled with the general fund of the society. Such society shall have full power to provide for means of enforcing payment of contribution, designations of beneficiaries, and changing such designations, and in all other respects for the regulation, government and control of such certificates and all rights, obligations and liabilities incident thereto and connected therewith.

Repealing clause.

Section 5. Sections 6339, 6340, 6341, 6342, 6343 and 6344 of the Revised Codes of Montana of 1935, and Chapter 22, Session Laws of 1939, and all acts and parts of acts in conflict herewith are hereby repealed.

Approved February 23, 1945.

CHAPTER 98

An Act to Amend Sections 5132, 5133 and 5134 of the Revised Codes of Montana 1935, As Amended by Chapter 73 of the Laws of the Twenty-sixth Legislative Assembly, Relating to Service Pensions, Disability Pensions and Widows' and Orphans' Pensions to be Paid Members or Survivors of Members of Fire Departments in Cities and Towns Where Firemen's Relief Associations Have Been Formed.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 5132, R. C. 1935, as amended, further amended.

Section 1. That Section 5132 of the Revised Codes of Montana 1935 as amended by Chapter 73 of the laws of the twenty-sixth legislative assembly of the State of Montana be and the same is hereby amended to read as follows:

Pensions to retired firemen.

"Section 5132. **Pensions to Retired Firemen.** Each and every fire department relief association organized and existing under the laws of this state shall pay to each of its members who elect to retire from active service after having completed twenty (20) years or more of active duty and has reached the age of fifty (50) years on the volunteer, paid, or partly paid and partly volunteer fire department of the city or town wherein such association has been formed, out of any money in the association's 'disability and pension

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fund', a 'service pension' in an amount *which shall be equal to* one-half (½) of the sum last received by the member as a monthly compensation for his services as an active member of said fire department. Provided, such association may at any time, by a *two-thirds* (2/3) vote of the members thereof, increase or decrease the said service pension whenever the financial condition of the association's 'disability and pension fund' shall warrant such action; provided, that no increase shall be effected as will increase the said 'service pension' to an amount in excess of a sum equal to one-half (½) of the monthly active duty compensation last received by the member; *provided, further, that no decrease shall be effected unless the balance in the 'disability and pension fund' is less than one-half (½) of one (1%) per cent of the taxable valuation of all taxable property within the limits of the city, town, or municipality.* In case of volunteer men the compensation shall in no event exceed the sum of seventy-five ($75.00) dollars per month."

Sec. 5133, R. C. 1935, as amended, further amended.

Section 2. That Section 5133 of the Revised Codes of Montana 1935, as amended by Chapter 73 of the laws of the twenty-sixth legislative assembly of the State of Montana be and the same is hereby amended to read as follows:

Disability pension.

"Section 5133. **Disability Pension.** Each and every fire department relief association, organized and existing under the laws of this state, shall pay a 'disability pension', out of any moneys in the association's 'disability and pension fund', to each and every member of said association who has become injured or disabled by reason of sickness or injury contracted or received in line of duty, in an amount *which shall be equal* to one-half (½) of the sum last received as a monthly compensation by such injured or disabled member for services rendered the fire department of the city or town wherein such association has been formed. Provided, such association may at any time, by a *two-thirds (2/3)* vote of the members thereof, increase or decrease the said 'disability pension' whenever the financial condition of the association's 'disability and pension fund' shall warrant such action; provided further that no member of said association shall be entitled to receive said 'disability pension' so long as he may be receiving an allowance or award under the Montana workmen's compensation act; *provided further, that no increase shall be effected as will increase the said 'disability pension' to an amount in excess of a*

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sum equal to one-half (½) of the monthly salary last received by the member; provided, further, that no decrease shall be effected unless the balance in the 'disability and pension fund' is less than one-half (½) of one (1) per cent of the taxable valuation of all taxable property within the limits of the city, town, or municipality. In case of volunteer firemen such disability pension shall in no event exceed the sum of seventy-five ($75.00) dollars per month."

Sec. 5134, R. C. 1935, as amended, further amended.

Section 3. That Section 5134 of the Revised Codes of Montana 1935, as amended by Chapter 73 of the laws of the twenty-sixth legislative assembly of the State of Montana be and the same is hereby amended to read as follows:

Pensions to widows and children.

"Section 5134. **Pensions to Widows and Orphans.** Each and every fire department relief association, organized and existing under the laws of this state, shall pay to the widow or orphans of a deceased member of said association, who, on the date of his decease, was an active member of the fire department in the city or town wherein such association has been formed, or had elected to retire from active service of said fire department and receive a 'service pension' as provided for by section 1 of this act, or, prior to his decease had suffered a sickness or injury in line of duty, and was receiving or was qualified to receive a 'disability pension', as provided by section 2 of this act, out of any money in the relief association's 'disability and pension fund', a monthly pension in an amount *which shall be equal* to one-half of the monthly compensation last received by such deceased member for his services as an active member of the fire department in the city or town wherein such association has been formed. Provided, such association may at any time, by a *two-thirds* vote of the members thereof, increase or decrease the said pension *whenever the financial condition of the association's 'disability and pension fund' shall warrant such action;* provided, that no increase shall be effected as will increase the said pension in an amount in excess of a sum equal to one-half (½) of the monthly compensation last received by the deceased member; *provided, further, that no decrease shall be effected unless the balance in the 'disability and pension fund' is less than one-half (½) of one (1) per cent of the taxable valuation of all taxable property within the limits of the city, town, or municipality.* Provided, that said pension shall be paid to the within named widow only so long as she remains un-

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married, and further provided, that a widow of a deceased fireman shall not be entitled to the pension, provided for by this act, *in those cases where the marriage was consummated after* the fireman had elected to retire from active service and receive a 'service pension' as provided for by section 1 of this act; or in those cases where the marriage was consummated after the fireman had qualified and was receiving a 'disability pension' as provided for by section 2 of this act. Provided further, that the pension herein provided for shall not be paid to the orphans of deceased firemen after they have attained the age of eighteen (18) years. In case of volunteer firemen such pension shall in no event exceed the sum of seventy-five ($75.00) dollars per month."

Severability.

Section 4. If any clause, sentence, section, paragraph or part of this act shall for any reason, be adjudged by any court of competent jurisdiction to be invalid or inoperative, such judgment shall not affect, impair or invalidate the remainder of this act but shall be confined in its operation to the clause, sentence, section, paragraph or part directly adjudged to be invalid and inoperative.

Repealing clause.

Section 5. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 6. This act shall be in full force and effect from and after its passage and approval.

Approved February 23, 1945.

CHAPTER 99

An Act to Repeal Section 3701, the Revised Codes of Montana, 1935, Relating to the Open and Closed Season for Grouse.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 3701, R. C. 1935, repealed.

Section 1. That Section 3701 of the Revised Codes of Montana, 1935, be, and the same is hereby repealed.

Effective date.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Approved February 23, 1945.

CHAPTER 100

An Act Providing That Whoever Obtains or Solicits Employment in Asserting Outside the State Any Claim Aris-

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ing Within the State for Death or Personal Injury in Favor of a Resident of the State and Against a Resident Thereof or a Corporation Subject to Service of Process Therein, is Guilty of a Misdemeanor; and Providing That Proof of Solicitation of Employment in Asserting Such Claim Coupled With Commencement Outside the State of An Action for Damages Thereon, is Prima Facie Evidence of a Violation.

Be it enacted by the Legislative Assembly of the State of Montana:

Solicitation of employment in asserting outside the state of certain claims forbidden.

Section 1. Whoever obtains or solicits, for himself or another, employment in asserting outside the State of Montana any claim or right of action that arose within the state for death or personal injury in favor of a resident of the state and against a resident thereof or a corporation subject to service of process therein, is guilty of a misdemeanor.

Prima facie evidence.

Section 2. Proof of the solicitation of employment in asserting such claim or right of action, coupled with the commencement outside the state of an action to recover damages thereon, is prima facie evidence of a violation of section 1 of this act.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 23, 1945.

CHAPTER 101

An Act to Amend Section 1 of Chapter 68 of the Session Laws of 1941, Relating to the Investment of Sinking and Interest Funds.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 1 of Chapter 68 of the Session Laws of 1941 be and the same is amended to read as follows:

State depository board authorized to invest money of state bond sinking and interest fund in certain securities.

"Section 1. Whenever there is any money in any state bond sinking and interest fund, either now existing or hereafter created and established, which is not required for the immediate payment of any bond principal or interest, or which cannot be used for the payment and redemption of bonds outstanding because of the same not being then redeemable under the option provisions contained therein, the

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state depository board is hereby authorized to invest such moneys in bonds of the State of Montana, revenue bonds of the State of Montana or bonds of the United States; *or in the Montana trust and legacy fund of the State of Montana;* in bonds issued by any agency or department of the United States, the payment of principal and interest of which bonds is guaranteed by the United States, and in interest bearing warrants drawn against the general fund of the State of Montana; provided, however, that none of such moneys shall be invested in bonds or securities except such as will be called in and paid at least fifteen (15) days prior to the time such moneys are required for payment of principal and interest of such outstanding state bonds to which such sinking and interest fund belongs, or the time when such moneys can be used for such purpose because of the optional date provided for in the bonds in which such moneys are invested having arrived."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 23, 1945.

CHAPTER 102

An Act to Amend Section 3732, of the Revised Codes of Montana, 1935, As Amended by Chapter 226, Laws of 1943, Relating to the Shipping of Game Animals, Game Birds, Fish or Fur-bearing Animals from the State by Non-residents.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 3732, R. C. 1935, as amended, further amended.

Section 1. That Section 3732 of the Revised Codes of Montana, 1935, as amended by Chapter 226, Laws of 1943, be, and the same is hereby amended to read as follows:

Permit to non-resident to ship animals or parts of animals from state.

"3732. **Permit to Non-resident to Ship Animals or Parts of Animals from State.** Any non-resident of this state who has procured a proper license to hunt or fish within this state, and who desires to ship out of the state any *game animals*, game birds, fish or any part thereof, taken or killed by him during the open season for killing the

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same, and same having been killed lawfully, shall obtain a shipping permit from the state fish and game warden or other authorized person, and shall present to the transportation company his license with the consignment of game or fish to be shipped, provided, that no person shall ship more than twice every seven days the legal limit of fish or game. Provided that any non-resident who desires to ship or take out of the state, any fur-bearing animal, or the skins from fur-bearing animals, or parts thereof, legally acquired, shall first procure a permit from the state fish and game warden, said permit stating the name of the consignee and consignor, destination and number and kind of fur-bearing animals, or the skins from fur-bearing animals that are to be shipped, and said permit shall be presented to the transportation company with the consignment. Provided, further, that any non-resident who has lawfully taken any game animals, game birds, fish or any part thereof, in an adjoining state, and is compelled, by reason of mountainous country or other local conditions, to carry and transport said game animals, game birds, fish or any part thereof, over and across this state in order to return with said game animals, game birds, fish or any part thereof, to said adjoining state in which said game was taken, *may do so provided he has the necessary license for the taking thereof issued by the state in which the game animals, game birds, fish or fur-bearing animals were taken.*"

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 23, 1945.

CHAPTER 103

An Act to Amend Section 2115 of the Revised Codes of Montana of 1935, Relating to Applications for Reductions in Tax Valuations to County Boards of Equalization.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 2115, R. C. 1935, amended.

Section 1. That Section 2115 of the Revised Codes of Montana of 1935, be and the same is hereby amended to read as follows:

"Section 2115. **Application for Reduction in Valuations.** No reduction must be made in the valuation of

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Application for reduction in valuations.

property unless the party affected thereby, or his agent, makes and files with the board *on or before the 1st day of August*, a written application therefor, verified by his oath. *Said application shall specifically describe the property involved and shall state* the facts upon which it is claimed such reduction should be made. The board of county commissioners shall, however, have the right to raise or lower the valuation of all of one class of property in a county, as provided in the preceding section."

Effective date.

Section 2. This act shall take effect upon its passage and approval.

Approved February 24, 1945.

CHAPTER 104

An Act to Amend Sections 537.1 and 105, Revised Codes of Montana, Relating to Printing and Publication of Measures Submitted to the Vote of the People, to Provide for the Printing and Distribution of Constitutional Amendments.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 537.1, R. C. 1935, amended.

Section 1. That Section 537.1 of the Revised Codes of Montana 1935 be and the same is hereby amended to read as follows:

Publication and printing of amendments to constitution.

"Section 537.1. **Publication and Printing of Amendments to Constitution.** Whenever a proposed constitutional amendment or amendments are submitted to the people of the state for popular vote, the secretary of state shall cause the said proposed amendment or amendments to be published in full once a week in one newspaper in each county of the state, if such there be, for three (3) months previous to the next general election for members of the legislative assembly. Such publication shall not be had in more than one paper in any one county in the state.

Printing and distribution of pamphlet containing copy of amendment.

The secretary of state shall also cause to be printed a pamphlet containing a true and exact copy of the proposed amendment or amendments, and a true and exact copy of the existing constitutional provisions if the proposed constitutional amendment or amendments is or are a revision of an existing amendment or amendments, and the amend-

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ment or amendments in the form in which it or they will be printed on the official ballot. The said proposed amendment or amendments, printed as herein provided, shall then be distributed as provided in Section 105 of the Revised Codes of Montana of 1935. The cost of publication of said amendment or amendments, *and the cost of printing said pamphlet or* pamphlets shall be a proper charge against the state at the rate, as provided for in the statutes for state printing."

Sec. 105, R. C. 1935, amended.

Section 2. That Section 105 of the Revised Codes of Montana of 1935 be and the same is amended to read as follows:

"Section 105. **Printing and Distribution of Measures.** The secretary of state shall furnish a copy of each of the proposed measures to be submitted to the people and make requisition on the state purchasing agent for the printing and delivery to him of all proposed *constitutional amendments,* initiative and referendum measures to be submitted to a vote of the people.

Printing and distribution of measures.

Duty of state purchasing agent.

The state purchasing agent, shall, not later than the first Monday of the third month next before any general or special election, at which any proposed law is to be submitted to the people, cause to be printed a true copy of the title and text of each measure to be submitted, with the number and form in which the question will be printed on a separate official ballot. It shall be the duty of the state purchasing agent to call for bids, and contract with the lowest responsible bidder for the printing of the proposed law to be submitted to the people.

Specifications for printing.

The proposed law to be submitted shall be printed in news type, each page to be six inches wide by nine inches long, and when such proposed measure constitutes less than six pages, it shall be printed flat and forwarded to the county clerk and recorder of each of the several counties in that form.

Further provisions as to pamphlet.

When the proposed measure constitutes more than six pages, said measure shall be printed in pamphlet form, securely stapled, without cover. No proposed measure, hereafter, to be submitted to the people of the state, as provided for in this section shall be bound. The quality of the paper to be used for the proposed measure shall be left to the discretion of the state purchasing agent. The number of said

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proposed measures to be printed shall be five per cent (5%) more than the number of registered voters, as shown by the registration lists of the several counties of the state at the last preceding general election.

Distribution.

The secretary of state shall distribute to each county clerk before the second Monday in the third month next preceding such regular general election, a sufficient number of said pamphlets to furnish one copy to every voter in his county. And each county clerk shall be required to mail to each registered voter in each of the several counties in the state at least one copy of the same within thirty (30) days from the date of his receipt of the same from the secretary of state. The mailing of said pamphlets to electors shall be a part of the official duty of the county clerk of each of the several counties, and his official compensation shall be full compensation for this additional service."

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 24, 1945.

CHAPTER 105

An Act to Amend Sections 6261 and 6282 of Chapter 33 of the Revised Codes of Montana of 1935, and by Incorporating a New Section in Said Chapter, to be Known as Section 6282.1, Relating to Life Insurance Policies, Valuation Thereof, and Non-forfeiture Provisions Therein.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 6261, R. C. 1935, amended.

Section 1. That Section 6261 of Chapter 33 of the Revised Codes of Montana of 1935 be, and the same is hereby amended to read as follows:

Valuation of reserves for life insurance policies to be made annually by state auditor.

"Section 6261. (1) *The state auditor shall annually value, or cause to be valued, the reserve liabilities (hereinafter called reserves) for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurance company doing business in this state, and may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest and methods (net level premium method or other) used in*

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the calculation of such reserves. In calculating such reserves, he may use group methods and approximate averages for fractions of a year or otherwise. For the purpose of making such valuation he may employ a competent actuary who shall be paid by the company for which the service is rendered; but *a* company *organized under the laws of this state* may make such valuation and it may be received by the state auditor upon satisfactory proof of its correctness. *In lieu of the valuation of the reserves herein required of any foreign or alien company, he may accept any valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when such valuation complies with the minimum standard herein provided and if the official of such state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the state auditor when such certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction.*

When company may adopt lower standard of valuation.

"Any company which at any time shall have adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard herein provided may, with the approval of the state auditor, adopt any lower standard of valuation, but not lower than the minimum herein provided.

Deposit of securities with state auditor.

"The net value of all policies in force in any company *organized under the laws of this state* being ascertained the state auditor shall notify the company of the amount thereof, and within thirty days thereafter such company shall deposit with the state auditor the amount of the ascertained valuation in the securities specified by the insurance laws of this state. No stock company organized under the laws of this state shall be required to make such deposit until the net value of the policies in force as ascertained by the state auditor, exceeds the amount deposited by such company as capital stock; provided that mutual life companies shall deposit with the state auditor at least one-half of the first annual premium in securities as provided for by the insurance laws of this state; provided further that all companies included in this act shall have the right at any time, with the approval of the state auditor, to change the securities on deposit by substituting a like amount of the character re-

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quired in the first instance. If any valuation of the policies in force is less than the amount of securities already on deposit, then the company, in the case of a stock company, may withdraw such excess.

Application of this subsection.

"(2) *This subsection shall apply to only those policies and contracts issued prior to the operative date of section 6282.1 (the standard non-forfeiture law).*

Minimum standard of valuation.

"The minimum standard of valuation on all policies of life insurance companies organized under the laws of this state issued prior to January 1, 1922, shall be the American experience table of mortality and interest at three and one-half per centum per annum, with preliminary term insurance for the first policy year, and for policies of such companies issued subsequent to December 31, 1921, shall be the American experience table of mortality with interest at three and one-half per centum per annum, with preliminary term insurance for the first policy year, except as follows: If the premium charged for term insurance under a limited payment life preliminary term policy providing for the payment of all premiums thereon in less than twenty years from the date of the policy, or under an endowment preliminary term policy, exceeds that charged for life insurance under twenty payment life preliminary term policies of the same company, the reserve thereon at the end of any year, including the first, shall not be less than the reserve on a twenty payment life preliminary term policy issued in the same year and at the same age, together with an amount which shall be equivalent to the accumulation of a net level premium reserve sufficient to provide for a pure endowment at the end of the premium payment period, equal to the difference between the value at the end of such period of such a twenty payment life preliminary term policy and the full net level premium reserve at such time of such a limited payment life or endowment policy.

Option of company as to calculation of reserves.

"Reserves for all such policies and contracts may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by this subsection.

Application of this subsection.

"(3) *This subsection shall apply to only those policies and contracts issued on or after the operative date of section 6282.1 (the standard non-forfeiture law).*

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"(a) *The minimum standard for the valuation of all such policies and contracts shall be the commissioners reserve valuation method defined in paragraph (b), three and one-half per cent (3½%) interest, and the following tables:*

Minimum standard for valuation.

"(i) *For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies,—the commissioners 1941 standard ordinary mortality table.*

"(ii) *For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies,—the 1941 standard industrial mortality table.*

"(iii) *For annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies,—the 1937 standard annuity mortality table.*

"(iv) *For total and permanent disability benefits in or supplementary to ordinary policies or contracts—class (3) disability table (1926) which, for active lives, shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.*

"(v) *For accidental death benefits in or supplementary to policies—the inter-company double indemnity mortality table combined with a mortality table permitted for calculating the reserves for life insurance policies.*

"(vi) *For group life insurance, life insurance issued on the substandard basis and other special benefits—such tables as may be approved by the state auditor.*

"(b) *Reserves according to the commissioners reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such policies, over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and the excess of (A) over (B), as follows:*

Reserves according to commissioners reserve valuation method.

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"(A) *A net level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due; provided, however, that such net level annual premium shall not exceed the net level annual premium on the nineteen year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of such policy.*

"(B) *A net one year term premium for such benefits provided for in the first policy year.*

Method of calculation.

"Reserves according to the commissioners reserve valuation method for (i) life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums, (ii) annuity and pure endowment contracts, (iii) disability and accidental death benefits in all policies and contracts, and (iv) all other benefits, except life insurance and endowment benefits in life insurance policies, shall be calculated by a method consistent with the principles of this paragraph (b).

Company's aggregate reserves, minimum amount of.

"(c) *In no event shall a company's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, be less than the aggregate reserves calculated in accordance with the method set forth in paragraph (b) and the mortality table or tables and rate or rates of interest used in calculating non-forfeiture benefits for such policies.*

Method of calculation of reserves, option of company.

"(d) *Reserves for any category of policies, contracts or benefits as established by the state auditor, may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used shall not be higher than the corresponding rate or rates of interest used in calculating any non-forfeiture benefits provided for therein. Provided, however, that reserves for participating life insurance policies may, with the consent of the state auditor, be calculated according to a rate of interest lower than the rate of interest used in calculating the non-forfeiture benefits in such policies, with the further proviso that if such lower rate differs from the rate used in the calculation of the non-forfeiture benefits by*

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more than one-half per cent (½%) the company issuing such policies shall file with the state auditor a plan providing for such equitable increases, if any, in the cash surrender values and non-forfeiture benefits in such policies as the state auditor shall approve.

Deficiency reserve, when required.

"(e) *If the gross premium charged by any life insurance company on any policy or contract is less than the net premium for the policy or contract according to the mortality table, rate of interest and method used in calculating the reserve thereon, there shall be maintained on such policy or contract a deficiency reserve in addition to all other reserves required by law. For each such policy or contract the deficiency reserve shall be the present value, according to such standard, of an annuity of the difference between such net premium and the premium charged for such policy or contract, running for the remainder of the premium-paying period.*"

Sec. 6282, R. C. 1935, amended.

Section 2. That Section 6282 of Chapter 33 of the Revised Codes of Montana of 1935 be, and the same is hereby, amended to read as follows:

Application of this section.

"Section 6282. *This section shall apply only to policies of life insurance issued prior to the operative date of section 6282.1 (the standard non-forfeiture law).*

Default in payment of premium, right secured to insured upon.

"In event of default in payment of any premium due on any policy, provided not less than three full years' premiums shall have been paid, there shall be secured to the insured, without action on his part, either paid-up or extended insurance as specified in the policy, the net value of which shall be at least equal to the entire net reserve held by the company of such policy, less two and one-half per centum of the amount insured by the policy and dividend additions, if any, and less any outstanding indebtedness to the company on the policy at time of default. There shall be secured to the insured the right to surrender the policy to the company at its home office within one month after date of default for cash value otherwise available for the purchase of the paid-up or extended insurance as aforesaid."

Chapter 33, R. C. 1935, amended.

Section 3. That Chapter 33 of the Revised Codes of Montana of 1935, be and the same is hereby amended by incorporating therein, following section 6282 of said chapter a new section to be known as section 6282.1, to read as follows:

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Title of section.

"Section 6282.1. (1) This section shall be known as the standard non-forfeiture law.

Standard non-forfeiture law.

"(2) In the case of policies issued on or after the operative date of this section, as defined in subsection (8), no policy of life insurance, except as stated in subsection (7), shall be issued or delivered in this state unless it shall contain in substance the following provisions, or corresponding provisions which in the opinion of the state auditor are at least as favorable to the defaulting or surrendering policyholder:

Policy provisions required.

"(a) That, in the event of default in any premium payment, after premiums have been paid for at least one full year, the company will grant, upon proper request not later than sixty days after the due date of the premium in default, a paid-up non-forfeiture benefit on a plan stipulated in the policy, effective as of such due date, of such value as may be hereinafter specified.

"(b) That, upon surrender of the policy within sixty days after the due date of any premium payment in default after premiums have been paid for at least three full years in the case of ordinary insurance or five full years in the case of industrial insurance, the company will pay, in lieu of any paid-up non-forfeiture benefit, a cash surrender value of such amount as may be hereinafter specified.

"(c) That a specified paid-up non-forfeiture benefit shall become effective as specified in the policy unless the person entitled to make such election elects another available option not later than sixty days after the due date of the premium in default.

"(d) That, if the policy shall have become paid up by completion of all premium payments or if it is continued under any paid-up non-forfeiture benefit which became effective on or after the third policy anniversary in the case of ordinary insurance or the fifth policy anniversary in the case of industrial insurance, the company will pay, upon surrender of the policy within thirty days after any policy anniversary, a cash surrender value of such amount as may be hereinafter specified.

"(e) A statement of the mortality table and interest rate used in calculating the cash surrender values and the paid-up non-forfeiture benefits available under the policy,

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together with a table showing the cash surrender value, if any, and paid-up non-forfeiture benefit, if any, available under the policy on each policy anniversary either during the first twenty policy years or during the term of the policy, whichever is shorter, such values and benefits to be calculated upon the assumption that there are no dividends or paid-up additions credited to the policy and that there is no indebtedness to the company on the policy.

"(f) *A brief and general statement of the method to be used in calculating the cash surrender value and the paid-up non-forfeiture benefit available under the policy on any policy anniversary beyond those shown in the table together with an explanation of the manner in which the cash surrender values and the paid-up non-forfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the company on the policy.*

Provisions not applicable may be omitted.

"*Any of the foregoing provisions or portions thereof not applicable by reason of the plan of insurance may, to the extent inapplicable, be omitted from the policy.*

Payment of surrender value, deferment of.

"*The company shall reserve the right to defer the payment of any cash surrender value for a period of six months after demand therefor with surrender of the policy.*

Cash surrender value, what is.

"(3) *Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary, whether or not required by subsection (2), shall be an amount not less than the excess, if any, of the present value, on such anniversary, of the future guaranteed benefits which would have been provided for by the policy, including any existing paid-up additions, if there had been no default, over the sum of (a) the then present value of the adjusted premiums as defined in subsection (5), corresponding to premiums which would have fallen due on and after such anniversary, and (b) the amount of any indebtedness to the company on the policy. Any cash surrender value available within thirty days after any policy anniversary under any policy paid up by completion of all premium payments or any policy continued under any paid-up non-forfeiture benefit, whether or not required by subsection (2), shall be an amount not less than the present value, on such anniversary, of the future guaranteed benefits provided for by the policy, in-*

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cluding any existing paid-up additions, decreased by any indebtedness to the company on the policy.

Non-forfeiture benefit to be at least equal to cash surrender value.

"(4) *Any paid-up non-forfeiture benefit available under the policy in the event of default in a premium payment due on any policy anniversary shall be such that its present value as of such anniversary shall be at least equal to the cash surrender value then provided for by the policy, or, if none is provided for, that cash surrender value which would have been required by this section in the absence of the condition that premiums shall have been paid for at least a specified period.*

Adjusted premiums, how calculated.

"(5) *The adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year that the present value, at the date of issue of the policy, of all such adjusted premiums shall be equal to the sum of (i) the then present value of the future guaranteed benefits provided for by the policy; (ii) two per cent of the amount of insurance, if the insurance be uniform in amount, or of the equivalent uniform amount, as hereinafter defined, if the amount of insurance varies with duration of the policy; (iii) forty per cent of the adjusted premium for the first policy year; (iv) twenty-five per cent of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less. Provided, however, that in applying the percentages specified in (iii) and (iv) above, no adjusted premium shall be deemed to exceed four per cent (4%) of the amount of insurance or level amount equivalent thereto. The date of issue of a policy for the purpose of this subsection shall be the date as of which the rated age of the insured is determined.*

In case of policy for insurance, the amount varying with duration of policy.

"*In the case of a policy providing an amount of insurance varying with duration of the policy, the equivalent level amount thereof for the purpose of this subsection shall be deemed to be the level amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same pres-*

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ent value at the inception of the insurance as the benefits under the policy.

Adjusted premium and present values, how calculated.

"All adjusted premiums and present values referred to in this section shall be calculated on the basis of the commissioners 1941 standard ordinary mortality table for ordinary insurance and the 1941 standard industrial mortality table for industrial insurance and the rate of interest, not exceeding three and one-half per cent (3½%) per annum, specified in the policy for calculating cash surrender values and paid-up non-forfeiture benefits. Provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a non-forfeiture benefit, the rates of mortality assumed may be not more than one hundred and thirty per cent (130%) of the rates of mortality according to such applicable table. Provided, further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the state auditor.

Cash surrender value and paid-up non-forfeiture benefit, how calculated.

"(6) *Any cash surrender value and any paid-up non-forfeiture benefit, available under the policy in the event of default in a premium payment due at any time other than on the policy anniversary, shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary. All values referred to in subsections (3), (4) and (5) may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death. The net value of any paid-up additions, other than paid-up term additions, shall be not less than the dividends used to provide such additions. Notwithstanding the provisions of subsection (3), additional benefits payable (a) in the event of death or dismemberment by accident or accidental means, (b) in the event of total and permanent disability, (c) as reversionary annuity or deferred reversionary annuity benefits, (d) as decreasing term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, this section would not apply, and (e) as other policy benefits additional to life insurance and endowment benefits, and premiums for all such additional benefits, shall be disregarded in ascertaining cash surrender values and non-forfeiture benefits required by*

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this section, and no such additional benefits shall be required to be included in any paid-up non-forfeiture benefits.

Section not applicable to certain contracts.

"(7) *'This section shall not apply to any reinsurance, group insurance, pure endowment, annuity or reversionary annuity contract, nor to any term policy of uniform amount, or renewal thereof, of fifteen years or less expiring before age sixty-six, for which uniform premiums are payable during the entire term of the policy, nor to any term policy of decreasing amount on which each adjusted premium, calculated as specified in subsection (5), is less than the adjusted premium so calculated, on such fifteen year term policy issued at the same age and for the same initial amount of insurance, nor to any policy which shall be delivered outside this state through an agent or other representative of the company issuing the policy.*

Company may file written notice of its election hereunder.

"(8) *After the effective date of this act, any company may file with the state auditor a written notice of its election to comply with the provisions of this section after a specified date before January first, nineteen hundred and forty-eight, with respect to the policies specified in the notice. After the filing of such notice, then upon such specified date (which shall be the operative date for such company with respect to such policies), this section shall become operative with respect to the policies specified in such notice thereafter issued by such company. As to all of its policies and contracts with respect to which a company makes no such election, the operative date of this section with respect to such policies and contracts for such company shall be January first, nineteen hundred and forty-eight."*

Repealing clause.

Section 4. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 5. This act shall be in full force and effect from and after July 1, 1945.

Approved February 24, 1945.

CHAPTER 106

An Act to Validate and Legalize All Contracts Executed Between the Years 1923 and 1928, Both Dates Inclusive, So Made by the State Board of Land Commissioners for

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the Sale of Lands Acquired by the State Through the Foreclosure of State Mortgages, or Otherwise Acquired by the State in Connection With Such Mortgages, Wherein the Mortgagor in Such Mortgage or Some Person Claiming Under Him, Was the Contract Purchaser, and Authorizing Issuance of Patent or Deed on Fulfillment of Such Contract Free of Mineral, Oil and Gas Reservations, and Validating and Legalizing All Deeds and Patents Heretofore Issued on Such Contracts, Waiving and Relinquishing All State Mineral, Oil and Gas Claims Therein, and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Validation of certain contracts by state for sale of lands.

Section 1. That all contracts executed between the years 1923 and 1928, both dates inclusive, which were entered into by the State of Montana through the state board of land commissioners, for the sale of lands acquired by the State of Montana through the foreclosure of mortgages, or for sale of lands otherwise acquired by the state in connection with mortgages, wherein the mortgagor in any such mortgage to the state, or any one claiming under him, was the purchaser, are hereby validated and legalized, and no such contract shall be held invalid by reason of the fact that such contract for purchase was not entered into within one year and three months after the State of Montana foreclosed its mortgage, or otherwise took title to said lands in connection with said mortgage.

Contract purchaser, to what entitled.

Section 2. That the contract purchaser referred to in section 1 hereof shall, upon fulfillment of the terms of said contract, be entitled to a deed or patent from the State of Montana, conveying to said purchaser all the right, title and interest in said lands that the state acquired by the foreclosure or other conveyance to it of said lands, and the State of Montana hereby expressly waives all mineral, gas and oil rights that it might otherwise have in and to said lands were it not for this enactment.

Validation of certain deeds issued in fulfillment of contracts.

Section 3. That all deeds heretofore issued upon the fulfillment of such contracts made and entered into as aforesaid between the State of Montana and a person who lost the lands described in said deeds to the State of Montana on mortgage foreclosure, or otherwise conveyed said land to the State of Montana in satisfaction of the mortgage, or any person claiming under such mortgagor, are hereby validated and legalized, and no such deed, or any part thereof, shall

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be declared void or inoperative because a contract so fulfilled was entered into more than one year and three months after the State of Montana foreclosed its mortgage, or otherwise took title to said lands, and all mineral, oil and gas rights not reserved in any such deed to the State of Montana are hereby waived and relinquished by the State of Montana unto the grantor in such deed.

Waiver of unreserved oil and gas rights.

Effective date.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved February 24, 1945.

CHAPTER 107

An Act to Amend Section 6175, Revised Codes of Montana, 1935, Relating to Powers of State Rural Mutual Insurance Companies.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 6175, R. C. 1935, amended.

Section 1. That Section 6175, Revised Codes of Montana, 1935, be and the same is hereby amended as follows:

Powers of state rural mutual insurance companies.

"6175. Such corporation and its directors shall possess the usual powers and be subject to the usual duties of corporations and directors thereof, and may make such by-laws, not inconsistent with the constitution or this act, as may be deemed necessary for the management of its affairs in accordance with the provisions of this act, and may prescribe the duties of its officers *and employees* and fix their compensation, and may alter and amend its by-laws when necessary. *Annual meetings of such corporation may be held at or adjourned to other places in the State of Montana than the location of its principal business office. Notice of any adjourned meeting shall be given to the members of such corporation in the same manner as provided in the by-laws for the regular annual meeting.*"

Meetings.

Approved February 24, 1945.

CHAPTER 108

An Act to Amend Section 3694 of the Revised Codes of Montana, 1935, As Amended by Chapter 159, Laws of the Twenty-seventh Legislative Assembly by Adding a Sub-

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section Thereto to be Known as Section 3694.2, Defining the Term "Public Highway" As Used in Said Section 3694.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 3694 of the Revised Codes of Montana, 1935, as amended by Chapter 159 of the Session Laws of the twenty-seventh legislative assembly of Montana, be and the same is hereby amended by adding a subsection thereto, to be known as section 3694.2, reading as follows:

Sec. 3694, R. C. 1935, as amended, further amended.

Section 3694.2. That the term "public highway" as used in said section 3694 shall be construed to mean that part of the highway from the center line to the edge of the grade thereof, or to the edge of the traveled part of the highway, if same is ungraded.

"Public highway," meaning of.

Approved February 24, 1945.

CHAPTER 109

An Act to Amend Section 3575.2 of the Revised Codes of Montana 1935, As Amended by Chapter 146 of the Session Laws of 1941 Relating to Fees for Scale Inspection Service and Providing for the Amount of Fees to Be Paid to the State Sealer of Weights and Measures at the Time Inspection is Made, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 3575.2 of the Revised Codes of Montana 1935 be and the same is hereby amended to read as follows:

Sec. 3575.2, R. C. 1935, amended.

"Section 3575.2. *It shall be the duty of each person, firm, copartnership, or corporation owning or in possession of a scale or scales to pay to the state sealer of weights and measures or his deputies at the time of inspection of such scale or scales, the following inspection fees:* For each railroad track scale the sum of ten ($10.00) dollars; grain shipping hopper scale with a capacity of forty thousand (40,000) pounds or over, ten ($10.00) dollars; wagon scale, truck scale, coal scale, dump scale, automatic or

Fees to be paid to state sealer of weights and measures.

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hopper shipping scale, beet scale, and stock scale, five ($5.00) dollars; for each dormant platform scale, and dial scale with a capacity of five hundred (500) pounds to one thousand (1,000) pounds, two ($2.00) dollars; each portable scale, meat track scale, hanging scale and commercial person weighing scale, one ($1.00) dollar; grain testers and other small scales used for weighing and testing grain in grain elevators, or warehouses, fifty (50c) cents; all counter scales with a capacity of one (1) to ten (10) pounds, twenty-five cents (25c); all counter scales with a capacity of over ten (10) pounds, seventy-five (75c) cents. The sealer of weights and measures, shall by proper regulation, fix inspection fees for any scales, weights, measures, weighing and computing devices not covered by the foregoing schedule of fees."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 24, 1945.

CHAPTER 110

An Act to Amend Section 4226 of the Revised Codes of Montana, 1935, Section 4212 of the Revised Codes of Montana, 1935, Section 4238 of the Revised Codes of Montana, 1935, As Amended by Section 6, Chapter 146 of the Session Laws of 1939; Section 4245 of the Revised Codes of Montana, 1935, As Amended by Section 12 of Chapter 146 of the Session Laws of 1939; Section 4251 of the Revised Codes of 1935, As Amended by Section 18, Chapter 146 of the Session Laws of 1939, and Repealing All Acts in Conflict Herewith; Relating to Standard Weights and Measures; State Sealer of Weights and Measures and Providing for the Standard Ton and Bushel of Additional Products Not Heretofore Provided For.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 4212, R. C. 1935, amended.

Section 1. That Section 4212 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Standards of weights and measures, what are.

"Section 4212. **What Are Standards.** The weights and measures accepted and used by the *bureau of standards* of the United States at the present time, except as herein-

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after provided, are the lawful standard weights and measures of the state. *The state sealer of weights and measures may establish tolerances in specifications for commercial weighing and measuring apparatus similar to the tolerances and specifications recommended by such bureau of standards. Any person violating such standards, tolerances or specifications shall be guilty of a misdemeanor.*"

Tolerances and specifications.

Section 2. That Section 4226 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Sec. 4226, R. C. 1935, amended.

"Section 4226. **Standard Ton and Bushel.** The standard ton consists of twenty hundred pounds, but a ton of mineral coal is expressed by the conventional quantity of twenty-six and one-third bushels of seventy-six pounds each. A bushel of the articles hereinafter named consists of the number of pounds affixed to each:

Standard ton and bushel.

Alfalfa	60	Pounds
Apples	*50*	"
Apples, dried	28	"
Barley	48	"
Beans	60	"
Beans, White Runner Pole	50	"
Beans, Broad Windsor	47	"
Beans, Lima	55	"
Blue Grass Seed	14	"
Bran	20	"
Beets	*60*	"
Buckwheat	*52*	"
Broom Corn Seed	30	"
Bromus Inermis	14	"
Corn, Shelled	56	"
Corn, Sweet	48	"
Corn, in the ear	70	"
Clover seed	60	"
Coal, Stone	80	"
Chestnuts	50	"
Cucumbers	48	"
Carrots	45	"
Cranberries	36	"
Flaxseed	56	"
Hempseed	50	"
Hickory Nuts	50	"
Hungarian grass seed	*48*	"

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Standard bushel.

Lime	80	"
Millet	50	"
Mustard Seed	56	"
Oats	32	"
Onions	*52*	"
Onion, Bottom Sets	32	"
Onion, Top Sets	28	"
Orchard Grass Seed	14	"
Potatoes, Sweet	46	"
Potatoes, Irish	60	"
Peas	60	"
Peanuts	22	"
Peaches, dried	28	"
Pears	45	"
Parsnips	42	"
Plastering Hair, Unwashed	8	"
Plastering Hair, Washed	4	"
Rye	56	"
Rapeseed	50	"
Rutabagas	52	"
Rhubarb	50	"
Salt	80	"
Speltz	40	"
Sorghum Seed	57	"
Turnips	60	"
Timothy Seed	45	"
Tomatoes	50	"
Wheat	60	"
Walnuts	50	"

Sec. 4238, R. C. 1936, as amended, further amended.

Section 3. That Section 4238 of the Revised Codes of Montana, 1935, as amended by Section 6 of Chapter 146, Session Laws of 1939, be, and the same is hereby amended to read as follows:

Duties of state sealer.

"Section 4238. Said state sealer of weights and measures, or his deputies, shall visit the various counties, cities and towns in the state, and in the performance of his duties, he, or his deputies, shall inspect weights and measures and balances which are used for buying or selling goods, wares, merchandise, or other commodities, and for public weighing, and shall test or calibrate weights and measures, weighing devices or apparatus used as test standards in the state. He, or his deputies, shall, at least once a year, test all scales, weights and measures used in checking the receipts or disbursements of supplies of every state institu-

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tion, and shall report in writing his findings to the executive officer of the institution concerned. The state sealer of weights and measures shall prepare a certificate of suitable size which shall be issued to the owner or person in charge after inspection, and a proper seal to be attached or affixed to all weights and measures or measuring devices so tested. *Said certificates and seals shall bear the signature of the state sealer of weights and measures, or shall be signed by a deputy sealer of weights and measures.* Such certificates shall be numbered in consecutive order, and shall show the date of issuance. It shall be unlawful for any person to deface, mutilate, obscure, conceal, efface, cancel or remove any such certificate, or any seal, stamp or mark provided for by this act, or cause or permit the same to be done, or to violate any of the provisions of this act, without the written consent of the state sealer of weights or that of the deputy who inspected the weighing device."

Certificate of inspection.

Defacement made unlawful.

Section 4. That Section 4245 of the Revised Codes of Montana, 1935, as amended by Section 12, Chapter 146 of the Session Laws of 1939, be, and the same is hereby amended to read as follows:

Sec. 4245, R. C. 1935, as amended, further amended.

"Section 4245. (a) All track scales used for the purpose of weighing freight in carload lots within the state shall be under the control and direction and jurisdiction of the state sealer of weights and measures, and subject to inspection by him, or his deputies.

Track scales.

(b) The state sealer of weights and measures, or his deputies, shall have power either on their own motion or on complaint being made, to determine whether any scales are defective or inefficient, or whether the time, manner, or method of using same is unreasonable, ineffective, or unjust, and shall have power to condemn any scale found to be defective or inefficient, and prohibit the use of the same while in that condition, and to render such decision and to make such order, rule, or regulation as may be deemed necessary or advisable. *No scale platform shall be allowed to extend over the manufacturer's specifications.*

Power to condemn.

(c) Any person or persons who shall sell, or direct or permit any person or persons in his or their employ to sell any commodity or article of merchandise and make or give *any false or short weight or measure, or* any person or persons owning or keeping, or having charge of any scales or steelyards for the purpose of weighing livestock, hay, grain,

Penalty for false or short weight or measure.

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coal, or other articles, who shall report any false or untrue weight, whereby any other person or persons may be defrauded or injured, *shall be deemed guilty of a misdemeanor, and shall be answerable to the party defrauded* or injured in double damages."

Section 4251, R. C. 1935, as amended, further amended.

Section 5. That Section 4251 of the Revised Codes of Montana, 1935, as amended by Section 18, Chapter 146 of the Session Laws of 1939, be and the same is amended to read as follows:

Condemnation or confiscation of weights and measures which cannot be made to conform.

"Section 4251. All weights, measures, and balances which cannot be made to conform to the standard weights and measures as herein provided shall be stamped "condemned" or "C. D." by the state sealer of weights and measures, or his deputies, or the state sealer of weights and measures, or his deputies, may confiscate and seize, without warrant, any incorrect weight, measure, weighing or measuring device or part thereof which does not conform to the state standards or specifications, and which in his or their best judgment cannot be repaired. *It shall be unlawful to offer or expose for sale, sell, use or possess a faulty scale, weight or measure, or any scale or measure used in buying or selling of any commodity or things and which has been rejected by the state sealer of weights and measures or his deputies.* Scales commonly known as "family scales" or scales marked when sold "not legal in trade" shall not be deemed standard and shall be subject to such seizure. The state sealer of weights and measures, or his deputies, shall not be liable to the owner of the property for damages caused by such seizure. *All persons owning coin weight scales shall place their name and address on the back of the scale. In all cases where inspection fees are not paid on coin weight scales, the same may be confiscated by the state sealer of weights and measures, or his deputies.*"

Sale, use or possession of faulty scale or measure made unlawful.

Coin weight scales.

Repealing clause.

Section 6. All acts and parts of acts in conflict herewith is hereby repealed.

Approved February 24, 1945.

CHAPTER 111

An Act to Create a Department of the State of Montana to Be Known As the Veterans' Welfare Commission of the State of Montana; Providing for the Appointment of the Members of Such Commission and Fixing Their Terms of Office, Duties and Compensation; Providing for the Em-

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ployment of a Director and Assistants; Creating a Contingent Fund and Providing for its Administration; Authorizing the Commission to Provide a Seal and Designate Certain Employees to Take Oaths; Transferring Records, Property and Unexpended Appropriations of the Veterans' Welfare Commission As Heretofore Constituted; Prohibiting Certain Acts; Requiring Certain Public Officers to Cooperate With the Commission; and Repealing Sections 5655, 5656, 5657, 5658, 5659, 5660, 5661, 5662, 5663, 5664, 5665, 5666, 5667, and 5668 of the Revised Codes of Montana 1935 Also Known As Chapter 415 of the Political Code All Relating to Veterans' Welfare Commission and All Other Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Veterans' welfare commission created.

Section 1. There is hereby created a commission to be known as the veterans' welfare commission of the State of Montana, to consist of five members who shall be appointed by the governor. Not more than one member shall be appointed from any one county; provided that no change of residence within the state after appointment shall alter his status as a member. No person shall be eligible to serve on the commission unless such person shall have been honorably discharged from service in the military forces of the United States in any of its wars and who is not a resident of this state. Such appointment shall be for a term of five years except that the governor in appointing the members of the first commission shall designate one member to serve for one year; one member to serve for two years; one member to serve for three years; one member to serve for four years and one member to serve for five years. The commission shall select, from its membership, a chairman, a vice-chairman and a secretary. Should a vacancy occur, the governor shall appoint a successor for the unexpired term only as hereinbefore provided. Each of the members of the veterans' welfare commission shall receive, as compensation for his official services, the sum of ten ($10.00) dollars per diem for each day actually engaged in the duties of his office, together with necessary expenses while away from home in the performance of the duties of his office. The maximum amount each member of the commission shall receive for per diem shall not exceed the sum of three hundred ($300.00) dollars per annum.

Members.

Term.

Officers.

Compensation.

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Duty of commission.

Section 2. It shall be the duty of the commission and it shall have power to establish a state wide service for discharged veterans and their families; to actively cooperate with state and federal agencies having to do with the affairs of veterans and their families; and to promote the general welfare of all veterans and their families. In carrying out the purposes of this act the commission may employ a director, service officers, assistants, clerks, or other personnel, all of whom must be residents of the State of Montana, prescribe their duties and fix and pay their compensation; and establish a state headquarters and such other offices as may be necessary to carry out the purposes of this act. All male employees of the commission shall have served in the military forces of the United States during World War I or World War II and shall have been honorably discharged therefrom; whenever possible female employees shall also be persons honorably discharged from service during World War I or World War II; preference for all appointments shall be given to disabled veterans.

Veterans' welfare fund.

Section 3. All monies appropriated by the legislature for the commission shall be kept by the state treasurer in a separate fund to be known as the veterans' welfare fund and be paid out by him on warrants issued by the state auditor on claims filed by the veterans' welfare commission. The state accountant shall prescribe a system of records and accounts to be kept by the commission. Expenditures shall be audited by the state board of examiners at least annually.

Contingent fund.

The state board of examiners may create a contingent fund for the veterans' welfare commission as provided for in Sections 195 and 285 of the Revised Codes of Montana 1935.

Surety bond.

Section 4. The director, and such other employees as the commission shall direct, shall furnish a surety bond for the faithful discharge of his or their duties in amounts to be prescribed by the commission.

Acknowledgments may be taken by members and employees.

Section 5. The commission may provide for a seal. The members and employees of the commission shall be authorized to take acknowledgments, depositions, and administer oaths and affirmations in any matters connected with the affairs of the commission or with the official duties of the members or employees of the commission.

Section 6. It shall be the duty of all state, county and

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municipal officers to render such aid to the veterans' welfare commission as shall be within their power and consistent with the duties of their respective offices. Aid to be rendered by state, county and municipal officers.

Section 7. No member or employee of the commission shall accept, receive or charge any money or thing of value for the performance of any service rendered to any veteran or his or her dependents, at any time or in any manner, other than the compensation allowed by law, and any person who shall violate the provisions of this section shall be deemed guilty of a misdemeanor. Acceptance of money for service forbidden.

Section 8. All records and property, including unexpended appropriations, and any other monies, of the veterans' welfare commission as heretofore constituted, shall be, and are hereby, transferred to the commission hereby created. Records and property of previous commission transferred.

Section 9. Sections 5655, 5656, 5657, 5658, 5659, 5660, 5661, 5662, 5663, 5664, 5665, 5666, 5667, and 5668 of the Revised Codes of Montana 1935 known also as Chapter 415 of the Political Code of the Revised Codes of Montana 1935 and all other acts or parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 10. This act shall be in full force and effect from and after May 1st, 1945. Effective date.

Approved February 24, 1945.

CHAPTER 112

An Act to Amend Section 455, Revised Codes of Montana, 1935, Relating to the Records Open to Public Inspection and Making Certain Exception Thereto.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 455, Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows: Sec. 455, R. C. 1935, amended.

"**Records Open to Public Inspection—Exceptions.** The public records and other matters in the office of any officer are at all times, during office hours, open to the inspection of any person. In cases of attachment, the clerk of the court with whom the complaint is filed must not make public the fact of the filing of the complaint, or the issuing of such attachment, until after the filing of return of service of attachment. Records open to public inspection. Exception.

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District court files relating to adoption of children.

No files in the office of the clerk of district court relating to the adoption of children shall be open to examination or inspection by any person unless the person desiring to examine or inspect any such file shall first obtain written permission from the district judge, and no district judge shall grant any applicant permission to examine or inspect any such file in the office of clerk of district court unless such applicant shall set forth in his application good and sufficient cause for such examination or inspection."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 24, 1945.

CHAPTER 113

An Act Amending Section 48, Revised Codes of Montana, 1935, Defining the Boundaries of Congressional Districts, and Particularly Enumerating the Counties Included in Each District in Order to Make the Same Conform to Existing Conditions.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 48, R. C. 1935, amended.

Section 1. That Section 48, Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Congressional districts, boundaries of.

"Section 48. **Congressional Districts.** All that portion of the State of Montana lying west of the east boundary of Flathead, Lewis and Clark, Broadwater, and Gallatin counties, to-wit: the counties of Beaverhead, Broadwater, Deer Lodge, Flathead, Gallatin, Granite, Jefferson, *Lake*, Lewis and Clark, Lincoln, Madison, Mineral, Missoula, Powell, Ravalli, Sanders, and Silver Bow shall constitute the first congressional district of the state; and that all that portion of the State of Montana lying east of the east boundary of Flathead, Lewis and Clark, Broadwater, and Gallatin counties, to-wit: the counties of Big Horn, Blaine, Carbon, *Carter*, Cascade, Chouteau, Custer, *Daniels*, Dawson, Fallon, Fergus, *Garfield, Glacier, Golden Valley*, Hill, *Judith Basin, Liberty, McCone*, Meagher, Musselshell, Park, *Petroleum*, Phillips, *Pondera, Powder River*, Prairie, Richland, Rosebud, *Roosevelt*, Sheridan, Stillwater, Sweet Grass, Teton, Toole, *Treasure*, Valley, *Wheatland*, Wibaux and Yellowstone shall constitute the second congressional district of the state.

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Whenever any county is created, comprised partly of the territory of both such districts, said county shall belong to and become a part of the district to which major portion of the territory of said county belonged and was a part prior to the creation of such new county." New counties.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved February 24, 1945.

CHAPTER 114

An Act to Amend Sections 3652 and 3670 of the Revised Codes of Montana for 1935, Relating Respectively to the Meetings and to the Disposition of Funds of the State Fish and Game Commission.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 3652 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

"Section 3652. **Meetings.** The members of the Commission shall within thirty days after their appointment and annually thereafter meet and organize by electing from its membership a chairman and shall hold quarterly or other meetings for the transaction of business, at such times and places it may deem necessary and proper, said meetings to be called by the chairman, or by a majority of the commission, and to be held at the time and place specified in the call for the same. A majority of the members of the commission shall constitute a quorum for the transaction of any business which may come before it. The said commission shall keep a record of all the business transacted by it. The chairman and secretary, hereinafter designated, shall sign all orders, minutes or documents for the commission. *The principal offices of the commission shall be located in the capitol building in Helena, and suitable and adequate rooms therefor, together with necessary furnishings, janitor services, light, heat and water shall be furnished by the State of Montana without charge to the commission.*" Meetings. Principal office.

Section 2. That Section 3670 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows: Sec. 3670, R. C. 1935, amended.

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State fish and game fund.

"Section 3670. **State Fish and Game Fund.** All sums collected or received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, or from fines, damages collected for violations of the fish and game laws of this state, from the appropriations, or received by the commission from any other source, shall be turned over to the state treasurer, and placed by him in a special fund known and designated as the 'state fish and game fund', provided, that out of any fines imposed by a court for the violation of this act, the costs of prosecution shall be paid to the county where the trial was held, in any case where the fine is not imposed in addition to the costs of prosecution. Said fund is hereby exclusively set apart and made available for the payment of all salaries, per diem, fees, expenses and expenditures of every source and kind whatsoever, authorized to be made by the state fish and game commission under the terms of this act, and said funds shall be expended for any and all such purposes, by said commission, subject to the proper audit and allowance by the state board of examiners and by appropriation by the legislative assembly of each session; provided, however, that all equipment, printing, materials and supplies of every nature required for the administration and operation of the state fish and game commission must be requisitioned for through the state purchasing agent, and the state purchasing agent shall purchase all necessary equipment, printing, materials and supplies of every nature required for the administration and operation of the state fish and game commission, *without charge to the commission for such services.*"

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 24, 1945.

CHAPTER 115

An Act to Amend Section 4444.2 of the Revised Codes of Montana, 1935, As Amended by Chapter 129 of the Laws of 1943, Relating to the Expenditures by Counties for the Purchase and Maintenance of Parks and Public Camping and Recreational Grounds.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 4444.2 of the Revised Codes of Montana, 1935, as amended by Chapter 129 of the Laws of 1943, be, and the same is hereby amended to read as follows:

Sec. 4444.2, R. C. 1935, as amended, further amended.

"Section 4444.2. **Use of Land—Limitation of Expenditures.** All tracts of land acquired under this act shall be set aside and used exclusively for public camping and recreational purposes, and each park so established shall be given an appropriate name or number. No county shall be authorized to expend to exceed *three thousand dollars ($3,000.00) out of the general fund of the county* for the purpose of acquiring and equipping parks as herein provided, nor may any county thereafter expend to exceed *one thousand dollars ($1,000.00)* per year out of the general fund of the county in maintenance of the same."

Use of land.

Limitation of expenditures.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved February 24, 1945.

CHAPTER 116

An Act to Amend Section 7, of Chapter 152, Session Laws of 1941, As Amended by Chapter 189, Session Laws of 1943, Relating to Transportation of Elementary and High School Pupils.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 7 of Chapter 152, Session Laws of 1941, as amended by Chapter 189, Session Laws of 1943, be, and the same is hereby amended to read as follows:

Sec. 7, Chap. 152, laws 1941, as amended, further amended.

"Section 7. **Schedule for Paying for Individual Transportation, Rent, or Board in Lieu of Bus Transportation Provided by the District.** The board of trustees may pay to the parents or legally appointed guardian of each child, eligible to transportation under this act, board or rent or provide transportation for the child, the amount called for under the following schedule in lieu of furnishing bus transportation:

Schedule for paying for individual transportation, rent, or board in lieu of bus transportation, provided by the district.

"(1) Three (3) to less than five (5) miles, one (1) child, twenty-five cents (25c) per day for each day attend-

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ed; for each additional child ten cents (10c), but not to exceed fifty-five cents (55c) per day for all children residing in the same household and attending a public school.

Rate schedule.

"(2) Five (5) to less than seven (7) miles, one (1) child, thirty cents (30c); for each additional child ten cents (10c), but not to exceed seventy cents (70c) per day for all children residing in the same household and attending a public school.

"(3) Seven (7) to less than twelve (12) miles, one (1) child forty cents (40c); for each additional child, ten cents (10c) but not to exceed eighty-five cents (85c) per day for all children residing in the same household and attending a public school.

"(4) Twelve (12) miles or over, one (1) child, fifty cents (50c) per day; for each additional child ten cents (10c) but not to exceed one ($1.00) dollar per day for all children residing in the same household who are eligible for transportation.

Children living 1½ miles from established bus route.

"(5) School children living within one and one-half (1½) miles of an established bus route shall not be eligible for transportation aid, other than the services of the established route. Children living more than one and one-half (1½) but less than three (3) miles from such route shall receive transportation aid of one-half (½) the rates given in subsection one (1) of the schedule set up in this section. Children living three (3) miles or more from such bus route shall receive transportation aid on the basis provided in the schedule fixed in this section.

"(6) This schedule shall not be so construed as to permit elementary and high school pupils to be counted as coming from separate households, except, when said children are compelled to attend public schools in entirely different communities and cannot thus be transported in the same conveyance, nor cared for in the same community.

"(7) The limitations of this act shall not apply to transportation within a city *or school district* when the board of trustees find it economical, convenient or desirable to transport children for a distance less than three (3) miles in order to relieve congestions in a school building or to prevent the erection of a new buildings, or when children live on an established bus route and less than three (3) miles from schools.

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"(8) In isolated cases where it will be more economical and desirable to close a school and to provide transportation, or board in a private home or dormitory for one or more pupils in order that they may attend another school in the same district, or in order that they may attend a school in another district, or where a school is maintained in a district but one or more pupils reside at such a distance from the school that it would be more economical and desirable, instead of furnishing transportation or board for attendance at the school in such district, to furnish transportation or board in a private home or dormitory while attending school in another district, this schedule may be altered by the county superintendent of schools, with the consent and approval of the state superintendent of public instruction; provided that in no case shall the altered schedule allow more than *twenty-five dollars ($25.00)* per month for one child, *ten dollars ($10.00) per month for a second child and five dollars ($5.00) per month for each child in addition to two from the same family.* To close school, when.

"(9) Except as provided above, this schedule shall not be altered by any authority, other than the legislative assembly of the State of Montana."

Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval, but no such schedule shall be so altered as to take effect prior to July 1, 1945. Effective date.

Approved February 24, 1945.

CHAPTER 117

An Act Relating to the Acknowledgment of Instruments, the Attestation of Documents, the Administration of Oaths and Affirmations, the Execution of Depositions and Affidavits, and Other Notarial Acts, Heretofore or Hereafter Taken Before Any Commissioned Officer of the Armed Forces of the United States; Providing That Such Instruments and Documents Executed by Any Person Who is a Member of or Actually Present With the Armed Forces of the United States or is Outside the United States for Certain Purposes, Shall Be Legal, Valid and Binding; Providing for the Form of the In-

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strument or Document and What Proof Shall Be Sufficient of the Authority of Such Commissioned Officer So to Act; and Repealing Chapter 35 and Chapter 36 of the Session Laws of the Twenty-eighth Legislative Assembly of Montana of 1943 and All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Acknowledgments and other notarial acts may be done by designated officers in armed services.

Section 1. In addition to the acknowledgment of instruments and the performance of other notarial acts in the manner and form and as otherwise authorized by law, instruments may be acknowledged, documents attested, oaths and affirmations administered, depositions and affidavits executed, and other notarial acts performed, before or by any commissioned officer in active service of the armed forces of the United States with the rank of second lieutenant or higher in the army or marine corps, or with the rank of ensign or higher in the navy or coast guard, or with equivalent rank in any other component part of the armed forces of the United States, by any person who either (a) is a member of the armed forces of the United States, or (b) is serving as a merchant seaman outside the limits of the United States included within the forty-eight (48) states and the District of Columbia; or (c) is outside the limits of the United States of America by permission, assignment or direction of any department or official of the United States government, in connection with any activity pertaining to the prosecution of any war in which the United States is then engaged.

Such notarial acts heretofore or hereafter done are admissible in evidence and eligible for records.

Such acknowledgment of instruments, attestation of documents, administration of oaths and affirmations, execution of depositions and affidavits, and performance of other notarial acts, heretofore or hereafter made or taken, are hereby declared legal, valid and binding, and instruments and documents so acknowledged, authenticated, or sworn to shall be admissable in evidence and eligible to record in this state under the same circumstances, and with the same force and effect as if such acknowledgment, attestation, oath, affirmation, deposition, affidavit, or other notarial act, had been made or taken within this state before or by a duly qualified officer or official as otherwise provided by law.

In the taking of acknowledgments and the performing of other notarial acts requiring certification, a certificate en-

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dorsed upon or attached to the instrument or documents, which shows the date of the notarial act and which states, in substance, that the person appearing before the officer acknowledged the instrument as his act or made or signed the instrument or document under oath, shall be sufficient for all intents and purposes. The instrument or document shall not be rendered invalid by the failure to state the place of execution or acknowledgment. Certification of notarial acts.

The signature, rank, and branch of service or subdivision thereof, of any such commissioned officer shall appear upon such instrument or document or certificate and no further proof of the authority of such officer so to act shall be required and such action by such commissioned officer shall be prima facie evidence that the person making such oath or acknowledgment is within the purview of this act. Signature, rank and branch of service of officer required.

Section 2. Chapter 35 and Chapter 36 of the Session Laws of the twenty-eighth legislative assembly of Montana of 1943 and all acts and parts of acts in conflict herewith, are hereby repealed. Repealing clause.

Section 3. This act shall take effect immediately upon its passage and approval. Effective date.

Approved February 24, 1945.

CHAPTER 118

An Act to Amend Section 5148 of the Revised Codes of Montana, 1935, Relating to Fire Protection and Establishment of Fire Districts, *and Providing for the Disorganization of Such Fire Districts.*

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 5148 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

"Section 5148. **Fire Protection—Establishment of Fire Districts**—*Disorganization of Fire Districts.* The board of county commissioners is authorized to establish fire districts in any unincorporated *territory,* town or village whenever requested in writing so to do by the owners of fifty per cent (50%) or more, of the area included within the proposed district and who constitute a majority of the tax- Fire districts in unincorporated territory, town or village, establishment of.

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payers who are freeholders of such territory, *town or village*, and whose names appear upon the last completed preceding assessment roll; and at the time of the annual levy of taxes may levy a special tax upon all property within such districts for the purpose of buying apparatus and maintaining the fire department of any such district, and such tax must be collected as are other taxes. All moneys so collected by the county treasurer shall be disbursed by him upon warrants signed by the treasurer of the fire company and countersigned by its *president or chief officer*. In the drawing of such warrants against the funds so collected by the county treasurer, the *president or chief officer* and treasurer of the fire company shall be governed by the by-laws of such fire company. It is provided that the provisions of this section shall not apply to payment of bonds and interest thereon as provided by sections 5149 to 5158 of this code. *Any fire district organized under this act may be dissolved when the board of county commissioners is requested in writing so to do by the owners of fifty per cent (50%) or more, of the area included within such fire district and who constitute a majority of the taxpayers who are freeholders of such territory, town or village and whose names appear upon the last completed assessment roll.*"

Special tax for equipment and fire department.

Dissolution of district.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 24, 1945.

CHAPTER 119

An Act Relating to the Prevention of Congenital Syphilis; Providing for the Taking of a Sample of Blood of Pregnant Women for Submission to An Approved Laboratory for a Standard Serological Test for Syphilis; Defining Standard Serological Test and Approved Laboratory; Providing for the Filing of the Results of Such Tests With the Montana State Board of Health; Requiring Each Birth and Stillbirth Certificate to Show the Date When Such a Test Was Made and If No Test Was Made, the Reason Shall Be Recorded Upon Such Certificate, But Said Certificate Shall Not Show the Result of Any Such Test; Authorizing the State Board of Health to Use Information Derived from Pregnancy Serological Tests; Providing That the Montana State Board of Health Shall

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Provide the Necessary Expenses in Carrying Out the Provisions of This Act; Prescribing Penalties for the Violation of This Act; Stating Validity and Saving Clauses; Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Physician or obstetrician attending pregnant woman required to take blood sample for serological test for syphilis.

Section 1. Every physician or other person authorized by law to practice obstetrics who shall be attending pregnant women in the state for conditions relating to their pregnancy during the period of gestation or at delivery shall, in the case of every woman so attended, take or cause to be taken a sample of blood of such woman at the time of first professional visit or within ten (10) days thereafter, and shall submit such sample to an approved laboratory for a standard serological test for syphilis. Every other person permitted by law to attend pregnant women in the state, but not permitted by law to take blood samples, shall cause a sample of blood of such pregnant women to be taken by a physician duly licensed to practice medicine and surgery, obstetrics, or other person authorized by law to take such sample of blood and have such sample submitted to an approved laboratory for a standard serological test for syphilis.

Result of test to be reported to state board of health.

Section 2. The results of all such laboratory tests shall be reported to the state board of health of Montana on standard forms prescribed and furnished by the state board of health. For the purpose of this act a standard serological test shall be a test for syphilis approved by the Montana state board of health, and shall be made at a laboratory approved to make such tests by said board. Such laboratory tests, as are required by this act, shall be made on request without charge at the Montana state board of health laboratory. In the event that an erroneous report has been made it shall be the duty of the Montana state board of health to expunge the error from the record.

Report of birth shall state whether such blood test was made.

Section 3. In reporting every birth and stillbirth, physicians, and others required to make such reports, shall state on the certificate whether a blood test for syphilis has been made upon a specimen of blood taken from the woman who bore the child for which a birth or stillbirth certificate is filed and the approximate date when the specimen was taken; provided that no birth or stillbirth certificate shall show the result of such test. If no test was made the reason shall be stated.

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Use of information by board.

Section 4. The Montana state board of health shall be authorized to use the information derived from pregnancy serological tests for such follow-up procedures as are required by law or deemed necessary by said board for the protection of the public health.

Assistance to be provided by board.

The Montana state board of health shall provide the necessary printing, clerical and other technical assistance involved in the administration of this act or any other expenditures necessary for carrying out its provisions and purposes.

Violation penalized.

Section 5. Any physician or other person engaged in attendance upon a pregnant woman during the period of gestation or at delivery or any representative of a laboratory who violates the provisions of this act shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than one hundred ($100.00) dollars; provided, however, that any physician or other person engaged in attendance upon a pregnant woman who requests a sample of blood in accordance with the provisions of Section 1, and whose request is refused, shall not be guilty of violation of the provisions of said section.

Severability.

Section 6. If any division, section, subsection, sentence, clause, phrase or requirement of this act is for any reason held to be unconstitutional, such decision shall not effect the validity of the remaining portions thereof. The legislature declares that it would have passed this act and each and every division, section, subsection, sentence, clause, phrase or requirement thereof, irrespective of the fact that any one or more other divisions, sections, subsections, clauses, sentences, phrases or requirements be declared unconstitutional.

Repealing clause.

Section 7. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 24, 1945.

CHAPTER 120

An Act Providing for the Cancellation of Record Defaulted Seed Grain Loans, Made to or Held by Any County of the State of Montana as Authorized by Sections 4640 to 4679, Inclusive and Sections 4680 to 4711, Inclusive, Revised

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Codes of Montana, 1921, Which Have Been Extinguished by the Statute of Limitations or Other Laws of the State of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Cancellation of record of seed grain loans.

Section 1. The county commissioners of the several counties of the State of Montana and all other county officers or departments, affected thereby, are hereby authorized to cancel of record all seed grain contracts, notes or obligations executed to or held by the various counties of the State of Montana under the provisions of Section 4640 to 4679, inclusive, and Sections 4680 to 4711, inclusive, Revised Codes of Montana of 1921, which were defaulted and which have been extinguished by reason of the application of the statute of limitations or other laws of the State of Montana.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect upon its passage and approval.

Approved February 24, 1945.

CHAPTER 121

An Act to Authorize the State of Montana to Join With Other States in an Interstate Compact to Conserve Oil and Gas; Prescribing Procedure for Withdrawal from the Compact; Constituting the Governor as Official Representative and Authorizing Him to Appoint an Assistant Representative and Making Provision for Payment of His Expenses and All Other Expense Incurred in Connection With Said Compact.

Be it enacted by the Legislative Assembly of the State of Montana:

Governor, for and in the name of state of Montana, authorized and directed to join in the interstate compact to conserve oil and gas.

Section 1. The governor of the State of Montana is hereby authorized and directed, for and in the name of the State of Montana, to join with other states in the interstate compact to conserve oil and gas, which was heretofore executed in the city of Dallas, Texas, on the 16th day of February, 1935, and is now deposited with the department of state of the United States, and which has been extended with the consent of congress to September 1, 1947.

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Contents of compact set forth.

Section 2. The interstate compact to conserve oil and gas referred to in the above section, and which it is hereby proposed to enter and to extend by agreement reads as follows:

"AN INTERSTATE COMPACT TO CONSERVE OIL AND GAS"

ARTICLE I

"This agreement may become effective within any compacting state at any time as prescribed by that state, and shall become effective within those states ratifying it whenever any three of the states of Texas, Oklahoma, California, Kansas, and New Mexico have ratified and congress has given its consent. Any oil-producing state may become a party hereto as hereinafter provided.

ARTICLE II

"The purpose of this compact is to conserve oil and gas by the prevention of physical waste thereof from any cause.

ARTICLE III

"Each state bound hereby agrees that within a reasonable time it will enact laws, or if laws have been enacted, then it agrees to continue the same in force, to accomplish within reasonable limits the prevention of:

(a) The operation of any oil well with an inefficient gas-oil ratio.

(b) The drowning with water of any stratum capable of producing oil or gas, or both oil and gas in paying quantities.

(c) The avoidable escape into the open air or the wasteful burning of gas from a natural gas well.

(d) The creation of unnecessary fire hazards.

(e) The drilling, equipping, locating, spacing or operating of a well or wells so as to bring about physical waste of oil or gas or loss in the ultimate recovery thereof.

(f) The inefficient, excessive or improper use of the reservoir energy in producing any well.

"The enumeration of the foregoing subjects shall not limit the scope of the authority of any state.

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ARTICLE IV

Contents of compact, continued.

"Each state bound hereby agrees that it will, within a reasonable time, enact statutes, or if such statutes have been enacted then that it will continue the same in force, providing in effect that oil produced in violation of its valid oil and/or gas conservation statutes or any valid rule, order or regulation promulgated thereunder, shall be denied access to commerce; and providing for stringent penalties for the waste of either oil or gas.

ARTICLE V

"It is not the purpose of this compact to authorize the states joining herein to limit the production of oil or gas for the purpose of stabilizing or fixing the price thereof, or create or perpetuate monopoly, or to promote regimentation, but is limited to the purpose of conserving oil and gas and preventing the avoidable waste thereof within reasonable limitations.

ARTICLE VI

"Each state joining herein shall appoint one representative to a commission hereby constituted and designated as THE INTERSTATE OIL COMPACT COMMISSION, the duty of which said commission shall be to make inquiry and ascertain from time to time such methods, practices, circumstances and conditions as may be disclosed for bringing about conservation and the prevention of physical waste of oil and gas, and at such intervals as said commission deems beneficial it shall report its findings and recommendations to the several states for adoption or rejection.

"The commission shall have the power to recommend the co-ordination of the exercise of the police powers of the several states within their several jurisdictions to promote the maximum ultimate recovery from the petroleum reserves of said states, and to recommend measures for the maximum ultimate recovery of oil and gas. Said commission shall organize and adopt suitable rules and regulations for the conduct of its business.

"No action shall be taken by the commission except:

(1) By the affirmative votes of the majority of the whole number of the compacting states, represented at any meeting, and

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Contents of compact, continued.

(2) By a concurring vote of a majority in interest of the compacting states at said meeting, such interest to be determined as follows:

Such vote of each state shall be in the decimal proportion fixed by the ratio of its daily average production during the preceding calendar half-year to the daily average production of the compacting states during said period.

ARTICLE VII

"No state by joining herein shall become financially obligated to any other state, nor shall the breach of the terms hereof by any state subject such state to financial responsibility to the other states joining herein.

ARTICLE VIII

"This compact shall expire September 1, 1947. But any state joining herein may, upon sixty (60) days' notice, withdraw herefrom.

"The representatives of the signatory states have signed this agreement in a single original which shall be deposited in the archives of the department of state of the United States, and a duly certified copy shall be forwarded to the governor of each of the signatory states.

"This compact shall become effective when ratified and approved as provided in ARTICLE I. Any oil-producing state may become a party hereto by affixing its signature to a counterpart to be similarly deposited, certified and ratified.

"Done in the city of Dallas, Texas, this sixteenth day of February, 1935."

(ORIGINALLY SIGNED BY THE REPRESENTATIVES OF THE FOLLOWING STATES:

Oklahoma, Texas, New Mexico, Colorado, Illinois, Michigan, California, Arkansas and Kansas.)

Agreements for the further extension of the expiration date of said contract.

Section 3. The governor of Montana is further authorized and empowered, for and in the name of the State of Montana, to execute agreements for the further extension of the expiration date of the said interstate oil compact to conserve oil and gas, and to determine if and when it shall be for the best interest of the State of Montana to withdraw

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from said compact upon sixty days' notice as provided by its terms. In the event he shall determine that the state should withdraw from said compact he shall have full power and authority to give necessary notice and to take any and all steps necessary and proper to effect the withdrawal of the State of Montana from said compact.

Governor is official representative of state on the "Interstate oil compact commission."

Section 4. The governor shall be the official representative of the State of Montana on "The Interstate Oil Compact Commission", provided for in the interstate compact to conserve oil and gas, and shall exercise and perform for the State of Montana all the powers and duties as a member of "The Interstate Oil Compact Commission"; provided that he shall have the authority to appoint an assistant representative who shall act in his stead as the official representative of the State of Montana as a member of said commission. Said assistant representative shall take the oath of office prescribed by the constitution of the State of Montana, which shall be filed with the secretary of state.

Construction of act.

Section 5. Nothing in this act shall be construed as granting any power to the representative of the State of Montana in his private or official capacity, or to the interstate oil compact commission, to prorate, allocate, regulate or control oil or gas production or refined products thereof within the State of Montana or the markets therefor; and shall not have the effect or be construed as in any manner surrendering to the federal government any rights over or in the production, sale or transportation of oil or gas or the refined products thereof in the State of Montana; nor shall anything in this act be understood or construed to bind or obligate the State of Montana to enact any new legislation or to amend or alter any laws heretofore enacted and now in force pertaining to the oil and gas industries in Montana.

Expenses of representative.

Section 6. The representative, or the assistant representative appointed by the governor of the State of Montana, to the oil compact commission shall be allowed and paid his reasonable expenses while engaged in the performance of his official duties and said expenses and all other expense incurred in connection with the said interstate oil compact and said commission shall be paid out of the oil conservation board fund in accordance with the provisions of Sec. 3554.17, R. C. of Montana 1935.

Repealing clause.

Section 7. All acts and parts of acts in conflict herewith are hereby repealed.

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Effective date.

Section 8. This act shall be in force and effect from and after its passage and approval.

Approved February 24, 1945.

CHAPTER 122

An Act Providing for the Remission of Penalty and Interest Upon Delinquent Taxes, the Record of Which Has Not Heretofore Been Transcribed to a New County Upon the Creation of Any County Out of the Territory of One or More Existing Counties; Providing for the Transcription of All Such Records of Delinquent Taxes Not Heretofore Transcribed; Defining the Duties of County Treasurers in Connection With Such Transcription of Delinquent Tax Records and Providing for the Release or Cancellation of the Lien Upon Real Property Under Certain Circumstances and Relieving All County Taxing Officials and Their Bondsmen from Liability for Failure to Notify the Owner of Property of Such Tax Delinquency and for Failure to Apply for Tax Deeds Upon the Tax Sale Certificates evidencing Same, and Repealing All Acts and Parts of Acts in Conflict Herewith; and Deeming This Act An Emergency Act.

Be it enacted by the Legislative Assembly of the State of Montana:

List of taxes on lands delinquent at time a "new county" was created and still unpaid.

Section 1. From and after the effective date of this act the county commissioners of any county heretofore formed from any county or counties in this state, hereinafter referred to as "new counties", may cause to be transcribed from the delinquent tax records of such county or counties from which such new county was formed, a list of all delinquent taxes which were in existence and a lien upon lands in the new county at the time of its creation, and which have not heretofore been transcribed, and which lien has not been heretofore released by the payment of such delinquent taxes. Such list shall show the description of the lands upon which the taxes were delinquent, the original amount of the tax and the tax sale certificate number under which said land was struck off to the parent county or counties, and the name of the person to whom such lands were assessed, and if such tax sale certificate has been assigned by the county, the name and address of the assignee as shown in such assignment. Upon completion of such transcription,

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such list shall be delivered to the treasurer of the new county.

Notice to persons to whom such lands are currently assessed.

Section 2. Upon receipt of such information by the treasurer of the new county, said treasurer shall, within a reasonable time thereafter, but not later than the date when the next current tax notices are required to be mailed out, notify the person or persons to whom said lands are currently assessed, except in cases hereinafter referred to, of such delinquency and the manner in which it may be paid as hereinafter provided.

Redemption, when, by payment of original tax only.

Section 3. That at any time not later than the first day of July, 1947, any lawful redemptioner including any owner, mortgagee or other person having a legal or equitable interest in said real estate or any part thereof, heretofore struck off to the parent county for delinquent taxes, and when no assignment of said delinquent tax sale certificate has been made, and no subsequent sale has been made in the new county, shall be permitted to redeem said property from said tax sale or sales by paying the original amount of the tax, without payment of any interest or penalty thereon.

Duty of county treasurer of such new county.

Section 4. After transcription of said record of delinquent taxes has been made, it shall be the duty of the county treasurer of the new county to collect said delinquent taxes in the manner provided by law, and the treasurer of the parent county shall have no further authority in relation to the collection of said taxes. All payments for delinquent taxes hereinbefore referred to shall be apportioned between the parent county and the new county in the manner provided for the apportionment of taxes by the law regulating the creation of new counties by petition and election, or as provided by the law creating any particular county.

Apportionment of payments.

Transcription of records, how made.

Section 5. The transcription of records herein provided for shall be made and payment therefor shall be had in the manner provided by Sections 4408 to 4426, inclusive, of the Revised Codes of Montana of 1935, and acts amendatory thereto. All the provisions of said sections not inconsistent with the terms of this act are hereby made applicable to the transcription of said records and the disposal of the delinquent taxes herein referred to.

In cases where tax deed has been issued to new county.

Section 6. In all cases where, since its creation, the new county has applied for and received tax deed to any property on which a lien existed in the parent county by reason

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of delinquent taxes, upon certification of that fact by the county commissioners of the new county, the county commissioners of the parent county shall, by order entered in its minutes, release and cancel such lien and certify its action to the board of county commissioners of the new county, which certificate shall be filed and properly indexed in the records of the new county and shall operate to clear the title to the property therein described of any cloud thereon existing by reason of such tax delinquency in the parent county.

County treasurer and other taxing officials relieved from certain liability and obligations.

Section 7. County treasurers, boards of county commissioners, and other county taxing officials and their bondsmen are hereby relieved from any and all obligation by reason of the failure of said officials to notify the owners of the lands hereinbefore referred to, of the existence of such tax delinquencies, or for the failure to apply for tax deeds, or any acts in conjunction herewith, when the same has been barred by statutes of limitation.

Repealing clause.

Section 8. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 9. In order to clear the title to many tracts of land as speedily as possible, this act is hereby deemed and declared an emergency act and shall be in full force and effect immediately upon its passage and approval.

Approved February 24, 1945.

CHAPTER 123

An Act Amending Section 3, Chapter 227 of the Session Laws of Montana, 1943, Relating to the Jurisdiction of District Judges in Juvenile Proceedings When the Juvenile Offender Has Been Committed to a Custodial *or Correctional* Institution, and Amending Section 12 of Chapter 227, Session Laws of Montana, 1943, Relating to Jurisdiction of Judges in Modifying Judgment When a Delinquent Child is Confined in a Custodial *or Correctional* Institution, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 3, Chap. 227, laws of 1943, amended.

Section 1. That Section 3 of Chapter 227 of the Session Laws of Montana, 1943, be, and the same is hereby amended to read as follows:

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"Section 3. **Jurisdiction.** The district courts of the several counties of this state shall have jurisdiction in all cases coming within the terms and provisions of this act. It is provided that the district court shall be called the juvenile court when acting under the juvenile court law. Jurisdiction.

The court shall have exclusive original jurisdiction in proceedings: (a) Concerning any child within the county who is delinquent; (b) Concerning any person under twenty-one years of age within the county charged with having violated any law of the state or any ordinance of any city or town, prior to having become eighteen years of age; (c) Concerning parents who wilfully and knowingly fail to provide their children with proper food, clothing, medical attention, and opportunity to attend school.

When jurisdiction shall have been obtained by the court in the case of any child, such child shall continue under the jurisdiction of the court until he becomes twenty-one years of age unless discharged prior thereto, *or is confined in a state custodial or correctional institution.* In trials under this act the child or the parent or guardian or other person having the care, custody or control of such child complained against, or any person interested in such child, shall have the right to demand a trial by jury, which shall be granted as in other cases, unless waived, or the judge of his own motion may call a jury to try such case, except that the jurisdiction of the court shall end if the child is committed to a state institution or agency." Jury trial.

Section 2. That Section 12 of Chapter 227 of the Session Laws of Montana, 1943, be, and the same is hereby amended to read as follows: Sec. 12, Chap. 227, laws of 1943, amended.

"Section 12. Modification of Judgment. Any order of the court may be modified at any time, except an order committing a child to the custody of a state custodial or correctional institution." Modification of judgment.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved February 24, 1945.

CHAPTER 124

An Act to Amend Section 5025 of the Revised Codes of Montana 1935, Fixing the Maximum Salary of the City or Town Clerk.

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Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 5025, R. C. 1935, amended.

Section 1. That Section 5025 of the Revised Codes of Montana 1935 be and the same is hereby amended to read as follows:

Salary of city or town clerk.

5025. **Salary of City or Town Clerk.** The annual salary and compensation of the city or town clerk must be fixed by ordinance, and in cities of the first class must not exceed *thirty-six hundred ($3600.00) dollars;* in cities of the second class must not exceed *twenty-four hundred ($2400.00) dollars.* The compensation above provided for shall be in full for all services rendered by any such clerks in any and every capacity. In cities of the third class the compensation must not exceed twelve hundred ($1200.00) dollars, and in towns must not exceed *six* hundred ($600.00) provided, however, that nothing in this section shall be held or construed as applying to cities and town operating under the commission form of government.

Approved February 25, 1945.

CHAPTER 125

An Act Conferring Upon the Governor, Secretary of State, and Commissioner of State Lands and Investments, Authority to Make the Selection of Land and to Effect and Complete the Exchange of Lands Authorized by the Act of Congress, Approved December 13, 1944 (Public Law 475—78th Congress) Whereby the State of Montana Was Authorized to Exchange Certain Lands for Other Lands to be Acquired by the State of Montana for the Use of the University of Montana for Biological Station Purposes.

Be it enacted by the Legislative Assembly of the State of Montana:

Selection of lands for use of university for biological station.

Section 1. The governor is hereby authorized to make selection on behalf of the State of Montana of lands for the use of the university of Montana for biological station purposes, such lands to be received by the State of Montana in exchange for lot 1 of section 13, in township 24 north, range 21 west of the Montana principal meridian, as authorized by the act of congress, approved December 13, 1944 (public law 475—78th congress).

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Section 2. The governor, secretary of state and commissioner of state lands and investments, are hereby authorized to execute and deliver to the person or persons with whom the said exchange mentioned in section 1 shall have been effected, a patent of the State of Montana conveying the said lot 1 herein described, in fee simple, as authorized by said act of congress, which patent shall be executed in the manner provided by Section 1805.96 of the Revised Codes of Montana, 1935, but without reservations or exceptions. Patent to be issued for land described in Sec. 1 hereof.

Section 3. This act is hereby deemed and declared an emergency act and shall be in full force and effect from and after its passage and approval. Effective date.

Approved February 25, 1945.

CHAPTER 126

An Act Concerning Fraudulent Conveyances and to Make Uniform the Law Relating Thereto.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Definition of Terms.** In this act "assets" of a debtor means property not exempt from liability for his debts. To the extent that any property is liable for any debts of the debtor, such property shall be included in his assets. Definition of terms.

"Conveyance" includes every payment of money, assignment, release, transfer, lease, mortgage or pledge of tangible or intangible property, and also the creation of any lien or incumbrance. "Conveyance."

"Creditor" is a person having any claim, whether matured or unmatured, liquidated or unliquidated, absolute, fixed or contingent. "Creditor."

"Debt" includes any legal liability, whether matured or unmatured, liquidated or unliquidated, absolute, fixed or contingent. "Debt."

Section 2. **Insolvency.** (1) A person is insolvent when the present fair salable value of his assets is less than the amount that will be required to pay his probable liability on his existing debts as they become absolute and matured. "Insolvency."

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Partnership, insolvency of.

(2) In determining whether a partnership is insolvent there shall be added to the partnership property the present fair salable value of the separate assets of each general partner in excess of the amount probably sufficient to meet the claims of his separate creditors, and also the amount of any unpaid subscription to the partnership of each limited partner, provided the present fair salable value of the assets of such limited partner is probably sufficient to pay his debts, including such unpaid subscription.

Fair consideration.

Section 3. **Fair Consideration.** Fair consideration is given for property, or obligation,

(a) When in exchange for such property, or obligation, as a fair equivalent therefor, and in good faith, property is conveyed or an antecedent debt is satisfied, or

(b) When such property, or obligation is received in good faith to secure a present advance or antecedent debt in amount not disproportionately small as compared with the value of the property, or obligation obtained.

Conveyances by insolvent.

Section 4. **Conveyances by Insolvent.** Every conveyance made and every obligation incurred by a person who is or will be thereby rendered insolvent is fraudulent as to creditors without regard to his actual intent if the conveyance is made or the obligation is incurred without a fair consideration.

Conveyances by persons in business.

Section 5. **Conveyances by Persons in Business.** Every conveyance made without fair consideration when the person making it is engaged or is about to engage in a business or transaction for which the property remaining in his hands after the conveyance is an unreasonably small capital, is fraudulent as to creditors and as to other persons who become creditors during the continuance of such business or transaction without regard to his actual intent.

Section 6. **Conveyances by a Person About to Incur Debts.** Every conveyance made and every obligation incurred without fair consideration when the person making the conveyance or entering into the obligation intends or believes that he will incur debts beyond his ability to pay as they mature, is fraudulent as to both present and future creditors.

Conveyances made with intent to defraud.

Section 7. **Conveyance Made With Intent to Defraud.** Every conveyance made and every obligation incurred with actual intent, as distinguished from intent presumed in law,

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to hinder, delay, or defraud either present or future creditors, is fraudulent as to both present and future creditors.

Conveyance of partnership property.

Section 8. **Conveyance of Partnership Property.** Every conveyance of partnership property and every partnership obligation incurred when the partnership is or will be thereby rendered insolvent, is fraudulent as to partnership creditors, if the conveyance is made or obligation is incurred,

(a) To a partner, whether with or without a promise by him to pay partnership debts, or

(b) To a person not a partner without fair consideration to the partnership as distinguished from consideration to the individual partners.

Rights of creditors whose claims have matured.

Section 9. **Rights of Creditors Whose Claims Have Matured.** (1) Where a conveyance or obligation is fraudulent as to a creditor, such creditor, when his claim has matured, may as against any person except a purchaser for fair consideration without knowledge of the fraud at the time of the purchase, or one who has derived title immediately or mediately from such a purchaser,

(a) Have the conveyance set aside or obligation annulled to the extent necessary to satisfy his claim, or

(b) Disregard the conveyance and attach or levy execution upon the property conveyed.

(2) A purchaser who without actual fraudulent intent has given less than a fair consideration for the conveyance or obligation, may retain the property or obligation as security for repayment.

Rights of creditors whose claims have not matured.

Section 10. **Rights of Creditors Whose Claims Have Not Matured.** Where a conveyance made or obligation incurred is fraudulent as to a creditor whose claim has not matured he may proceed in a court of competent jurisdiction against any person against whom he could have proceeded had his claim matured, and the court may,

(a) Restrain the defendant from disposing of his property,

(b) Appoint a receiver to take charge of the property,

(c) Set aside the conveyance or annual the obligation, or

(d) Make any order which the circumstances of the case may require.

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Cases not provided for in act.

Section 11. **Cases Not Provided for in Act.** In any case not provided for in this act the rules of law and equity including the law merchant, and in particular the rules relating to the law of principal and agent, and the effect of fraud, misrepresentation, duress or coercion, mistake, bankruptcy or other invalidating cause shall govern.

Construction of act.

Section 12. **Construction of Act.** This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Name of act.

Section 13. **Name of Act.** This act may be cited as the uniform fraudulent conveyance act.

Repealing clause.

Section 14. **Inconsistent Legislation Repealed.** All acts or parts of acts inconsistent with this act are hereby repealed.

Approved February 26, 1945.

CHAPTER 127

An Act Providing for Control of Public and Other Water Supplies Used by Cities, Towns, or Public Institutions or by Any Water or Ice Companies, or Persons for Domestic Use, and Specifically Amending Sections 2641 and 2649 of the Revised Codes of Montana, 1935.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 2641, R.C. 1935, amended.

Section 1. That Section 2641 of the Revised Codes of Montana, 1935, be, amended as follows:

State board of health to have control of water supplies.

"Section 2641. **State Board of Health to Have Control of Public** *and Other* **Water Supplies.** That the state board of health shall have the general oversight and care of all inland waters and of all streams, lakes and ponds used by any city, town, or public institution, or by any water or ice company *or person* in this state, as sources of water supply for domestic use, and of all springs, streams, and water-courses tributary thereto. It shall be provided with maps, plans, and documents suitable for such purposes, and shall keep records of all its transactions relative thereto.

Sec. 2649, R. C. 1935, amended.

Section 2. That Section 2649 of the Revised Codes of Montana, 1935, be, amended as follows:

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"Section 2649. **Pollution of** *Water Supply. That* no *sewerage,* drainage, refuse, or polluting matter, of such kind and amount as either of itself or in connection with other matter, will corrupt, pollute, or impair the quality of the water of any spring, pond, lake, or stream used as a source of water or ice supply by a city, town or *public* institution or water or ice company *or person* for domestic use, or render it injurious to health, and no human excrement shall be discharged into any such stream, spring, lake, pond, or upon their banks or into any feeders of such spring, lake, pond or stream unless such *sewerage,* drainage, refuse, or polluting water shall have been purified, so as to render it harmless in such a manner and under such conditions and restrictions as the state board of health may direct."

Pollution of water supply.

Section 3. All acts or parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved February 26, 1945.

CHAPTER 128

An Act to Amend Section 1882.2 of the Revised Codes of Montana, 1935, As Amended by Chapter 109 of the Session Laws of the Twenty-seventh Legislative Assembly of the State of Montana, 1941, and As Amended by Chapter 91 of the Session Laws of the Twenty-eighth Legislative Assembly of the State of Montana, 1943, Relating to State Oil and Gas Leases, the Area to Be Leased, Limitations, Term of Leases, and Agreements for the Pooling of Acreage With Others for Unit Operations for the Production of Oil or Gas, or Both.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 1882.2 of the Revised Codes of Montana of 1935, as amended by Chapter 109 of the Laws of the twenty-seventh legislative assembly of the State of Montana, 1941, and as amended by Chapter 91 of the Session Laws of the twenty-eighth legislative assembly of the State of Montana, 1943, be, and the same is hereby amended to read as follows:

Sec. 1882.2, R. C. 1935, as amended, further amended.

"1882.2. **Area to Be Leased—Limitations—Term of Leases—Operating Agreements.** No oil or gas lease issued

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Area to be leased.

on state lands shall embrace more than six hundred forty (640) acres, except, however, that any section which as surveyed by the government of the United States contains more than six hundred forty (640) acres may be included under one lease. Any person, association, corporation, or municipality qualified to hold an oil or gas lease on state lands may receive from the state board of land commissioners or take through assignment, or succession, will, judgment, decree, or otherwise through the operation of law, more than one oil and gas lease to state lands, subject, however, to such regulations and limitations as the state board of land commissioners may prescribe, both as to the number of such leases and otherwise.

Holding more than one lease permitted.

Term of leases.

All leases issued hereunder shall be granted for a period not exceeding ten (10) years and as long thereafter during the term of twenty (20) years commencing with the date of such lease or leases, as oil or gas of commercial quality and in commercial quantity shall be produced from the land covered thereby; provided, however, that all drilling, rental and other obligations are fully kept and performed by the lessee.

Operating agreements.

All holders of state oil and gas leases may enter into agreements with other persons, associations, firms and corporations for drilling and other operations on the state lands under their leases; but no such operating agreements shall in any way be binding upon the state until filed with the secretary of the state board of land commissioners and approved by the board; and no such drilling or operating agreement shall in any way effect the obligations of each individual lease holder to the state.

Pooling of acreage.

Nothing *contained herein or in prior related acts* shall prevent or be so construed as to prevent the state board of land commissioners from entering into agreements for the pooling of acreage with others for unit operations for the production of *oil or* gas, *or both,* and the apportionment of *oil or* gas royalties, *or both,* on an acreage or other equitable basis, and from modifying existing leases and leases hereafter entered into with respect to delay rentals, delay drilling penalties and royalties in accordance with such pooling agreements and such unit plans of operation; provided, however, that such agreements shall not change the percentages of royalties to be paid to the state from the percentages as fixed in its leases.

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Extension of term of certain leases.

The state board of land commissioners is hereby authorized to extend the term of oil and gas leases issued prior to the date when this act takes effect, and where oil or gas of commercial quality and in commercial quantity is produced from the land covered thereby, from a term of fifteen (15) years commencing with the date of such lease or leases to the term of twenty (20) years commencing with the date of such lease or leases. *Oil or* gas of commercial quality and in commercial quantity produced from any part of a unit in which state lands are included by virtue of a pooling agreement, shall be deemed to be produced from the state lands therein, within the meaning of this provision, and the term of the oil and gas lease or leases covering such lands, and of the pooling agreement covering the same, may be extended as hereinabove provided."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act is hereby deemed and declared an emergency act and shall be in full force and effect from and after its passage and approval.

Approved February 26, 1945.

CHAPTER 129

An Act to Amend Section 1201.3, Revised Codes of Montana 1935, As Amended by Chapter 108, Laws of the Twenty-eighth Legislative Assembly of 1943, Relating to State Common School Equalization Fund and the Distribution Thereof.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 1201.3, R. C. 1935, as amended, further amended.

Section 1. That Section 1201.3, Revised Codes of Montana 1935, as amended by Chapter 108, Laws of the twenty-eighth legislative assembly of 1943 be and the same is hereby amended to read as follows:

Distribution of fund.

"Section 1201.3. **Distribution of Fund—Reports May Be Required.** The state board of education at its meetings to be held in the months of July and December in each year, shall determine the minimum educational program which shall be equalized, and in determining such educational program shall consider the following factors: The minimum

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length of the school term; the levy required including levy for text books in order to maintain the school for such minimum term and with such minimum program; the taxable valuation of the district; the taxable valuation per child enrolled and in regular attendance; enrollment in regular attendance and minimum enrollment, and such other factors as said board may deem necessary for the purpose of carrying out the provisions of this act.

Conditions.

No amount shall be paid over to or distributed to any school district from the common school equalization fund, save and except under the following conditions:

Necessary tax of more than 15 mills.

1. When, in order for a district to maintain a school for the minimum term and to provide the minimum educational program, as determined by the state board of education, it is necessary for the district to levy a tax of more than fifteen (15) mills, including any levy made for text book purposes.

Transportation and tuition requiring tax of 15 mills.

2. When the number enrolled and in regular attendance does not exceed ten (10) and they can be readily transported to another school, not more than ten (10) miles distant and the cost of transportation and tuition at such other school will require a tax levy of more than fifteen (15) mills.

Amount of grant decreased, when.

The amount of equalization fund granted to any school district with less than ten (10) but more than five (5) pupils enrolled and in regular attendance shall be decreased at least ten per cent (10%) of the amount needed for the minimum term and the equalized minimum educational program adopted by the state board of education, for each pupil less than ten (10) enrolled and in regular attendance; provided that for a school with a number enrolled and in regular attendance not less than four (4), nor more than five (5) pupils, the amount granted from the equalization fund shall not exceed fifty per cent (50%) of the amount which would be granted to such school if it had ten (10) pupils enrolled and in regular attendance; and provided further, that no amount whatever shall be granted to any school district from such equalization fund when the number enrolled and in regular attendance is less than four (4).

School closed and pupils transported, when.

When application is made by any school district for aid from the common school equalization fund and it appears to the satisfaction of the state board of education that the

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school can be closed and the pupils transported to some other school, or board and rent furnished them in lieu of transportation while attending such other school, and that all cost and expense in connection with such pupils attending such other school will be less than the cost and expense of the district maintaining its school, and that by the district closing such school and providing for such transportation, or board or rent in lieu thereof, a less amount will be required from the said equalization fund, the state board of education must grant aid only in such amount as it may deem necessary under such conditions, and the amount granted may be used and expended by the school district in providing such transportation, or board and rent in lieu thereof.

Amount of grant, factors determining.

Whenever the state board of education shall determine that any school district is entitled to receive aid and assistance from such equalization fund, the board shall determine the minimum amount actually required to maintain such school, for the minimum term and educational program as determined by the board, or for tuition, transportation, or rent and board in lieu thereof, without any reserve being set up for the following school year, and shall also make a fair estimate of the cash balance, if any, on hand available for maintenance purposes, the amount which the district will receive from sources other than taxation for maintenance purposes and the amount which a levy of fifteen (15) mills, including any levy made for text books, will produce, and the total of such amounts shall be deducted from the amount determined by the board to be required for maintenance purposes, and the amount which may be granted such district from the equalization fund shall not exceed such difference, but may be fixed at a less amount.

Distribution of surpluses in equalization fund.

All surpluses in the state common school equalization fund, after one hundred thousand ($100,000.00) dollars have been apportioned under this act, for the year ending March 15, *1945*, shall be apportioned and distributed under the provisions of Section 1200.1 of the Revised Codes of Montana, 1935. Likewise all surpluses remaining in said state common school equalization fund, after one hundred thousand ($100,000.00) dollars have been apportioned under this act, for the year ending March 15, *1946*, shall be apportioned and distributed under the provisions of Section 1200.1 of the Revised Codes of Montana, 1935. After March 15, *1946*, all monies credited to the state common school

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equalization fund shall be apportioned and distributed under the provisions of Section 1200.1 of the Revised Codes of Montana, 1935.

Power of state board of education.

The state board of education, acting as such common school equalization board shall have the power to require such reports from county superintendents of schools, county treasurers, and school trustees as it may deem necessary, and shall provide rules and regulations for the purpose of carrying out the provisions of this section, and providing, as nearly as possible, and as far as said fund will allow, nine months' (9) schooling each year for every child in the common schools of the state."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect on and after its passage and approval.

Approved February 26, 1945.

CHAPTER 130

An Act to Amend Section 990, Revised Codes of Montana, 1935, As Amended by Chapter 205 of the 28th Legislative Assembly, 1943, Relating to the Election of Trustees in School Districts of the First Class.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 990, R. C. 1935, as amended, further amended.

Section 1. That Section 990 of the Revised Codes of Montana of 1935, as amended by Chapter 205 of the 28th legislative assembly, 1943, be, and the same is hereby amended to read as follows:

Elections in districts of the first class.

"Section 990. **Election in Districts of First Class—Nominations and Conduct of Elections.** In districts of the first class, no person shall be voted for or elected as trustee unless he has been nominated therefor at a bona-fide public meeting, held in the district not more than sixty (60) days nor less than forty (40) days before the day of election, and at which at least twenty (20) qualified electors were present, and a chairman and secretary were elected, and a certificate of such nomination, setting forth the place where the meeting was held, giving the names of the candidates in full, and if there are different terms to be filled,

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the term for which such candidate was nominated, duly certified by the chairman and secretary of such meeting, shall be filed with the district clerk within ten (10) days after such public meeting. The nomination and election of any person shall be void, unless he was nominated at a meeting as above provided at which at least twenty (20) qualified electors were present, and his nomination certified and filed as aforesaid, and the board of trustees acting as a canvassing board shall not count any votes cast for any person, unless he has been so nominated and a certificate thereof filed as herein required. In the event there be held only one (1) such public meeting, and only one (1) candidate be nominated for each term to be filled then and in that event no election need be held and the clerk of such district shall certify such facts to the board of trustees of the district, acting as a board of canvassers who shall thereupon certify the election of such persons to the county superintendent of schools."

Nomination and conduct of elections.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved February 26, 1945.

CHAPTER 131

An Act Authorizing the Creation by Boards of School Trustees of Reserve Funds for Elementary Schools, District High Schools, and County High Schools; Providing for the Accumulating of Post-war Funds, for the Maintenance and Repair of School Buildings and Maintenance, Repair and Replacement of School Equipment; Prescribing the Manner in Which Such Funds May Be Accumulated; Providing the Time When and the Purposes for Which Such Funds May Be Expended; and the Time During Which This Act Shall Be in Effect.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purpose of accumulating and providing post-war funds for the maintenance and repair of buildings and the maintenance, repair and replacement of equipment following the date proclaimed by the president as the termination of the existing war emergency, or following the date specified by congress as the date of such termination,

Creation of special reserve fund for post war maintenance, repair and equipment by school trustees authorized.

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the board of trustees of each school district shall have the power, during the life of this act as hereinafter specified, to create a special reserve fund for the elementary school or schools of the district to be designated as the "elementary deferred maintenance fund of school district No....."; and if the district maintains a high school or high schools such board of trustees shall likewise have the power, during such time, to create a special reserve fund for such purposes for such high school or schools to be designated as the "high school deferred maintenance fund of school district No. .....". And for such purposes the board of trustees of any county high school shall likewise have the power, during such time, to create a special reserve fund for such county high school to be designated as the "county high school deferred maintenance fund".

Transfer of unexpended balance in district school fund to reserve fund.

Section 2. Whenever, during the life of this act it is found immediately after the close of any school year, that there is any unexpended and unappropriated balance, over and above the reserve appropriated for the then current fiscal year, standing to the credit of the elementary general school fund, or district high school fund or the county high school fund, as the case may be, on the books of the county treasurer, such board of trustees may, in its discretion, transfer the same, or any part thereof, to the proper reserve fund which has been created by such board of trustees in accordance with the provisions of section 1 of this act, provided that no moneys standing to the credit of any elementary school fund shall be transferred to any such high school reserve fund and no moneys standing to the credit of any high school fund shall be transferred to any such elementary reserve fund. Every such transfer shall be made by resolution adopted by the board of trustees and a copy thereof shall be transmitted to the county treasurer and such treasurer shall thereupon make the proper entries in his accounts showing such transfer.

Expenditure of reserve fund moneys.

Section 3. None of the moneys transferred to any such reserve fund shall be expended for any purpose before the first day of July immediately following the date of the termination of the existing war emergency as proclaimed by the president or specified by congress. Beginning with such first day of July the moneys in such reserve funds may be expended for the maintenance and repair of school buildings and for the maintenance, repair and replacement of school equipment, but for no other purpose, and the bud-

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get for any district or high school for each year, when any expenditures are to be made from any such reserve fund, shall set out in such budget, as near as may be possible the items or purposes for which such expenditures are to be made and the amounts appropriated to meet such expenditures.

Conditions under which reserve fund moneys may be transferred to other funds.

Section 4. None of the moneys in any such reserve fund may at any time be transferred to any other fund or funds; provided, however, that if the amount or any part thereof appropriated for any item or purpose in any reserve fund budget shall not be required therefor the amount not so required may be transferred to any other item or purpose for which an appropriation has been made in such reserve fund budget; and provided further that immediately following the date when this act shall cease to be of any force or effect, if there shall remain in any such reserve fund any amount unexpended and unappropriated such amount may be, by order of the board of trustees be transferred to the general elementary school fund, if such amount be in the elementary reserve fund, or to district high school fund if such amount be in the high school reserve fund, or to the county high school fund, if such amount be in the county high school reserve fund, and written notice shall be given the county treasurer of such transfer.

Act becomes effective and limit of its duration.

Section 5. This act shall be in full force and effect from and after its passage and approval and shall remain in effect for the duration of the existing war emergency and for a period of three years after the termination thereof, as such date may be proclaimed by the president or specified by congress, but no longer; provided that such three year period shall commence on the first day of July immediately following the date as so proclaimed or specified.

Approved February 26, 1945.

CHAPTER 132

An Act Relating to Budgeting in School Districts Maintaining More Than One High School.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. In school districts maintaining more than one high school the maximum budget which may be adopted for

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Budgeting in school districts maintaining more than one high school.

such high schools under Section 1263.5, as amended by Chapter 64 Session Laws 1941, may be determined either by taking each school separately and finding the maximum budget which might be adopted therefor under said section and then adding together the maximums for all such high schools, or by using the maximum under said section for the total combined number of all eligible pupils in all such high schools.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 26, 1945.

CHAPTER 133

An Act Relating to Budgets for High Schools and the Levying of Taxes for High School Purposes for the School Years Beginning July 1, 1945 and Ending June 30, 1946; and Beginning July 1, 1946 and Ending June 30, 1947, and Expending Money Received by School Boards from the Federal Government in Addition to the Regular Budget.

Be it enacted by the Legislative Assembly of the State of Montana:

Increase of budgets for high schools authorized under certain conditions.

Section 1. If it shall appear to the satisfaction of the board of trustees of any high school and the county board of school budget supervisors, that because or on account of an anticipated increase in amounts required for payment of salaries and other maintenance and operating expenses for any school year, the maximum amount which may be budgeted for such high school during such year, as set forth, specified and determined in the manner provided by Section 1263.5, Revised Codes of Montana, 1935, as amended by Chapter 166, Session Laws, 1939, and Chapter 64, Session Laws, 1941, will not provide sufficient funds for such additional maintenance and operating expenses during such school year, then, and in that event only, the amount of the budget for such school year, as so set forth, specified and provided in said section 1263.5, as amended, may be increased by adding to such maximum amount not to exceed thirty per centum (30%) thereof. And all funds received

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by any school board from the federal government may be expended and shall not be included in the maximum herein set forth or provided in said section 1263.5, as amended, or by this act. Funds from federal government.

Section 2. In each county in which one or more high schools are maintained, the board of county commissioners shall annually levy on the second Monday in August a special tax for such high school or high schools at such rate that the amount when computed by applying the levy against the taxable valuation of the county will be the necessary amount to meet the approved budget or budgets. Special tax levy.

Section 3. The provisions of this act shall apply only to budgets for high schools which may be adopted for either or both of the school years beginning July 1, 1945 and ending June 30, 1946, and beginning July 1, 1946 and ending June 30, 1947, and not to any of such budgets for any year or years thereafter, and this act shall cease to have any force or effect after the second Monday in August, 1947. Application of act.

Section 4. None of the provisions of this act shall be deemed or construed to be in conflict with or to repeal any of the provisions of Section 1263.5, Revised Codes, 1935, as amended by Chapter 166, Session Laws, 1939, and Chapter 64, Session Laws, 1941, or any of the provisions of Section 1263.11, Revised Codes, 1935, as amended by Chapter 131, Session Laws, 1941, but shall be deemed and construed as merely authorizing the budgeting of larger amounts and the levying of a tax for the school years, specified in section 3 hereof, or for either thereof, when the same shall be necessary because of an anticipated increase in amounts required for payment of salaries and other maintenance and operating expenses during said years, or either thereof. Construction of act.

Section 5. This act shall be in full force and effect on and after its passage and approval. Effective date.

Approved February 26, 1945.

CHAPTER 134

An Act to Amend Section 1019.16, Revised Codes of Montana, 1935, As Amended by Chapter 193, Session Laws 1943, Relating to Emergency Budgets for Elementary Schools; Providing for the Adoption of Such Emergency Budgets, for the Issuance of Emergency Warrants and for the levying of Special Taxes to Pay the Same.

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Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 1019.16, R.C. 1935, as amended, further amended.

Section 1. That Section 1019.16, Revised Codes of Montana, 1935, as amended by Chapter 193, Session Laws 1943, be, and the same is hereby amended to read as follows:

Emergency budgets—conditions for.

"Section 1019.16. **Emergency Budgets.** *Whenever the board of trustees of a school district maintaining an elementary school or schools, at any time after December 31st of any school year, shall deem that an emergency exists by reason* of an increase in the enrollment *and attendance over that of the immediately preceding school year over and beyond the extent which such increase might reasonably have been anticipated at the time of the adoption of the budget for the then current school year, and that because of such increase in enrollment and attendance the budget approved and adopted for the then current school year does not provide sufficient funds to properly maintain and support such school or schools during the whole of the then current school year; or shall at any time during a school year deem that an emergency exists because of* the destruction *of any school property necessary to the maintenance of school,* or its impairment *by fire, flood, storm, riot, insurrection or other act of God,* to such an extent as to render it unfit or prevent its *use for the school purposes for which theretofore used; or because* of the entering by a court of competent jurisdiction of a judgment for damages against the district, or the enactment of legislation, after the adoption of the final budget, requiring expenditures not contemplated therein, *such board of trustees by unanimous vote of all members of the board present at any meeting, the time and place of holding which all of the trustees shall have had reasonable notice, may adopt and enter upon their minutes a resolution, stating the facts constituting the emergency, the estimated amount of money required to meet such emergency, and the time and place when the board will meet for the purpose of considering and adopting an emergency budget for such current school year. A copy of such resolution shall be published one time in the official newspaper of the county, a copy thereof shall be posted at the school house, or at each school house if there be more than one in the district, and at the post office, if there be one in the district, and a copy thereof shall be delivered to the county superintendent of schools and another copy delivered to the county clerk as clerk of the board of county commissioners of the county in which the school district is*

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situated. The time designated in such notice for such meeting shall be not less than one week after publication, posting and delivery of such copies of resolution. Such meeting shall be open to the public and any taxpayer in the district shall have the right to appear and be heard. If at such meeting a majority of the members of the board of trustees shall find that any such emergency actually exists, such board may make and adopt a preliminary emergency budget setting forth fully the facts constituting the emergency. If the emergency is due to increased enrollment and attendance the budget shall be so itemized as to show the amount appropriated therein for each item of instructional cost, maintenance of plant, operation of plant and auxiliary agencies, in the order in which such items are required to be set out in the annual budget by Section 1019.3, Revised Codes 1935, and the total amount to be appropriated for all such items, provided that the maximum amount which may be so appropriated in such emergency budget shall be determined in the following manner; the amount appropriated in the annual budget for the maintenance and support of such school or schools for the then current school year, less amounts appropriated as capital outlay for new buildings and alterations and new equipment, and reserve for the following school year, shall be divided by the number of pupils originally enrolled in such school or schools during the immediately preceding school year so as to ascertain the amount budgeted therein, less amounts appropriated for such capital outlay and reserve, for each such enrolled pupil, and such amount for each such enrolled pupil shall be multiplied by the increase in the number of pupils enrolled for the current school year over the number enrolled for the immediately preceding school year. The total amount appropriated in the emergency budget must not exceed such maximum amount. In the event of any other emergency described in this section, the preliminary emergency budget shall state the amount to be appropriated therein as definitely as possible the details of the proposed expenditures of the appropriation. Three copies of the emergency budget shall be furnished the county superintendent of schools and such county superintendent must lay one copy thereof before the board of county commissioners, which constitutes the board of school budget supervisors for the county, at the next regular meeting of such board. Such board shall have the power to make such change in such

Budget to be itemized, when and how.

Board of county commissioners may change budget.

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budget, if any, as it may deem proper and necessary, and shall then approve such budget, either as adopted by the board of school trustees, or as changes by the board of county commissioners."

Duty of county superintendent.

Section 2. *After the emergency budget has been approved by the board of county commissioners it shall be filed in the office of the county superintendent of schools who shall immediately notify in writing the clerk of the board of school trustees of the approval of such budget and of any changes which may have been made therein by the board of county commissioners. The county superintendent shall endorse on the two additional copies of the budget furnished by the board of school trustees the date of approval and any changes made therein, transmitting one thereof to the state superintendent of public instruction and delivering the other to the county treasurer.*

Duty of county treasurer.

Section 3. *The county treasurer, upon receiving such copy, shall enter in the budget accounts of such school district on his books the amount appropriated for each of the several items for which appropriations are made.*

Emergency warrants.

Section 4. *After the approval of such emergency budget, if the budget is to provide additional funds for the maintenance and support of the school or schools, whenever the amount appropriated for any item in the annual budget for such current school year has been fully used and such appropriation is exhausted, expenditures made thereafter shall be made by emergency warrants against the amount appropriated in the emergency budget, which emergency warrants shall be issued in the same manner and form and subject to the same conditions and provisions as set out in Section 1019.22, Revised Codes 1935, except that on each thereof shall be distinctly endorsed "ELEMENTARY EMERGENCY WARRANT SCHOOL DISTRICT NO. ....". After deducting from the amount of money standing to the credit of the general fund of the school district the amount required to meet and take care of all unexpended appropriations in the annual budget for the current school year and the reserve provided in such budget for the following school year, if any balance remains the same shall be used to pay such emergency warrants, in the order in which the same are presented for payment.*

Section 5. *The county treasurer shall, not later than the first Monday in August of the following school year, make*

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out a statement for such school district showing the total amount of such emergency warrants issued then outstanding and unpaid, and the amount of money, if any, in the general fund of the school district applicable to the payment thereof, and the amount for the payment of which a special tax levy should be made, and deliver the same to the board of county commissioners. Such board shall, on the second Monday in August, make and fix a levy against the taxable property in the school district which will raise sufficient funds to pay such outstanding emergency warrants, with interest thereon, and the county treasurer shall, when collected, place the same in a special fund and use the same to pay such outstanding emergency warrants with interest thereon. If after all such emergency warrants have been paid any amount remains in such special fund it shall be, by such county treasurer, transferred to the general fund of the school district.

Tax levy.

Special fund.

Approved February 26, 1945.

CHAPTER 135

An Act to Amend Section 1263.16, Revised Codes of Montana, 1935, As Amended by Chapter 192, Session Laws 1943, Relating to County High School and District High School Emergency Budgets; Providing for the Adoption of Such Emergency Budgets, for the Issuance of Emergency warrants and for the Levying of Special Taxes to Pay the Same.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 1263.16, Revised Codes of Montana 1935, as amended by Chapter 192, Session Laws 1943, be, and the same is hereby amended to read as follows:

Sec. 1263.16, R. C. 1935, as amended, further amended.

"Section 1263.16. **High School Budgets.** *Whenever the board of trustees of a county high school or the board of trustees of a school district maintaining a district high school or schools, at any time after December 31st of any school year, shall deem that an emergency exists by reason of* an increase in the enrollment *and attendance over that of the immediately preceding school year over and beyond the extent which such increase might reasonably have been anticipated at the time of the adoption of the budget for the*

High school budgets.

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then current school year, and that because of such increase in enrollment and attendance the budget approved and adopted for the then current school year does not provide sufficient funds to properly maintain and support such school or schools during the whole of the then current school year; or shall, at any time during a school year, deem that an emergency exists because of the destruction of any school property *necessary to the maintenance of school,* or its impairment *by fire, flood, storm, riot, insurrection, or other act of God, to such an extent as to render it unfit or prevent its use for the school purposes for which theretofore used; or because* of the entering by a court of competent jurisdiction of a judgment for damages against the district, or the enactment of legislation, after the adoption of the final budget, requiring expenditures not contemplated therein, *such board of trustees by unanimous vote of all members of the board present at any meeting, the time and place of holding which all of the trustees shall have had reasonable notice, may adopt and enter upon their minutes a resolution, stating the facts constituting the emergency, the estimated amount of money required to meet such emergency, and the time and place when the board will meet for the purpose of considering and adopting an emergency budget for such current school year. A copy of such resolution shall be published one time in the official newspaper of the county, a copy thereof shall be posted at the school house if a county high school or at the district high school house or at each such district high school house if there be more than one, and at the post office of the place or places in which the high school building or buildings may be situated, and a copy thereof shall be delivered to the county superintendent of schools and another copy delivered to the county clerk as clerk of the board of county commissioners of the county, the county superintendent of which has supervision over such county high school or district high school. The time designated in such notice for such meeting shall be not less than one week after publication, posting and delivery of such copies of resolution. Such meeting shall be open to the public and any taxpayer in the district shall have the right to appear and be heard. If at such meeting a majority of the members of the board of trustees shall find that any such emergency actually exists, such board may make and adopt a preliminary emergency budget setting forth fully the facts constituting the emergency. If the*

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emergency is due to increased enrollment and attendance the budget shall be so itemized as to show the amount appropriated therein for each item of instructional cost, maintenance of plant, operation of plant and auxiliary agencies, in the order in which such items are required to be set out in the annual budget by Section 1019.3, Revised Codes 1935, and the total amount to be appropriated for all such items; provided that the maximum amount which may be so appropriated in such emergency budget shall be determined in the following manner; the amount appropriated in the annual budget for the maintenance and support of such school or schools for the then current school year, less amounts appropriated as capital outlay for new buildings and alterations and new equipment, and reserve for the following school year, shall be divided by the number of pupils originally enrolled in such school or schools during the immediately preceding school year so as to ascertain the amount budgeted therein, less amounts appropriated for such capital outlay and reserve, for each such enrolled pupil, and such amount for each such enrolled pupil shall be multiplied by the increase in the number of pupils enrolled for the current school year over the number enrolled for the immediately preceding school year. The total amount appropriated in the emergency budget must not exceed such maximum amount. In the event of any other emergency described in this section the preliminary emergency budget shall state the amount to be appropriated therein, and as definitely as possible the details of the proposed expenditure of the appropriation. Three copies of the emergency budget shall be furnished the county superintendent of schools and such county superintendent must lay one copy thereof before the board of county commissioners, which constitutes the board of school budget supervisors for the county, at the next regular meeting of such board. Such board shall have the power to make such changes in such budget, if any, as it may deem proper and necessary, and shall then approve such budget, either as adopted by the board of school trustees, or as changes by the board of county commissioners."

Budgets to be itemized, when and how.

Board of county commissioners may change budget.

Section 2. *After the emergency budget has been approved by the board of county commissioners it shall be filed in the office of the county superintendent of schools who shall immediately notify in writing the clerk of the board of school trustees of the approval of such budget and*

Duty of county superintendent.

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of any changes which may have been made therein by the board of county commissioners. The county superintendent shall endorse on the two additional copies of the budget furnished by the board of school trustees the date of approval and any changes made therein, transmitting one thereof to the state superintendent of public instruction and delivering the other to the county treasurer.

Duty of county treasurer.

Section 3. *The county treasurer, upon receiving such copy, shall enter in the budget accounts of such school district on his books the amount appropriated for each of the several items for which appropriations are made.*

Section 4. *After the approval of such emergency budgets, if the budget is to provide additional funds for the maintenance and support of the high school or schools, whenever the amount appropriated for any such item in the annual high school budget for such current school year has been fully used and such appropriation is exhausted, expenditures made thereafter shall be made by emergency warrants against the amount appropriated in the emergency budget, which emergency warrants shall be issued in the same manner and form and subject to the same conditions and provisions as set out in Section* 1263.22, Revised Codes 1935, except that on each thereof shall be distinctly *endorsed "COUNTY HIGH SCHOOL EMERGENCY WARRANT" or "HIGH SCHOOL WARRANT SCHOOL DISTRICT NO.....". After deducting from the amount of money standing to the credit of the general fund of the county high school or the general fund of the district high school as the case may be the amount required to meet and take care of all unexpended appropriations in the annual budget for the current school year and the reserve provided in such budget for the following school year, if any balance remains the same shall be used to pay such emergency warrants, in the order in which the same are presented for payment.*

Emergency warrants.

Section 5. *The county treasurer shall, not later than the first Monday in August of the following school year, make out a statement for such county high school or school district showing the total amount of such emergency warrants issued then outstanding and unpaid, and the amount of money, if any, on hand applicable to the payment thereof, and the amount for the payment of which a special tax levy should be made, and deliver the same to the board of county*

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commissioners. Such board shall, on the second Monday in August, make and fix a levy against the taxable property of the county in the case of a county high school, or against the taxable property in the school district if a district high school which will raise sufficient funds to pay such outstanding emergency warrants, with interest thereon, and the county treasurer shall, when collected, place the same in a special fund and use the same to pay such outstanding emergency warrants with interest thereon. If after all such emergency warrants have been paid any amount remains in such special fund it shall be, by such county treasurer, transferred to the general fund of the county high school or to the high school fund of the district high school.

Tax levy.

Approved February 26, 1945.

CHAPTER 136

An Act to Amend Section *5781* of the Revised Codes of Montana, 1935, Relating to the Notice Required for An Application for Alimony in Divorce Proceedings, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 5781 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Sec. 5781, R. C. 1935, amended.

"Section 5781. **Notice of Application for Alimony.** No order for alimony shall be made until notice of the time and place of the hearing shall be served upon the opposite party."

Notice of application for alimony.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved February 27, 1945.

CHAPTER 137

An Act to Amend Sections 1, 6 and 8 of Chapter 87 of the Laws of the 25th Legislative Assembly of 1937, As Amended by Chapter 215 and 202, of the Laws of the 26th Legislative Assembly, Relating to Definitions, Bene-

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fits and Method of Financing Respectively; Providing That Interest On Withdrawals Shall Be Credited to the Pension Accumulation Fund; That Each Employer, As Defined in the Act, Shall Pay Into the Pension Accumulation Fund An Amount Equal to Three and One-half Per Centum (3½%) of Each Member Employees' Earnable Compensation; That the Expense Not Payable by Other Means Be Paid by Transfer from the Pension Accumulation Fund; and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 1, Chap. 87, laws of 1937, as amended, further amended.

Section 1. That Section 1, of Chapter 87, of the Laws of 1937, as amended by Chapter 215 of the 26th legislative assembly 1939, be and the same is hereby amended to read as follows:

Definitions.

"Section 1. **Definitions.** The following words and phrases used in this act shall have the following meanings unless a different meaning is plainly required by the content:

"Retirement system."

(1) 'Retirement system' shall mean the teachers' retirement system of the State of Montana provided for in section 2 of this act.

"Retirement board."

(2) 'Retirement board' shall mean the retirement board provided by section 3 of this act to administer the retirement system.

"Employer."

(3) 'Employer' shall mean the State of Montana or the board of trustees of any school district employing teachers subject to the provisions of this act; or other agency of and within the state by which the teacher is paid.

"Teacher."

(4) 'Teacher' shall mean any teacher in the public elementary and high school of the state, and the university of Montana, as constituted in accordance with Section 852, Revised Codes of Montana, 1935, including all kindergarten teachers in the public schools, and shall include any school librarian or physical training teacher, principal, vice-principal, supervisor, superintendent, county superintendent of schools, and any other member of the teaching or professional staff of any public elementary or high school of this state, and any administrative officer or member of the instructional or scientific staff of the university of Montana; provided that no person shall be deemed a teacher within the meaning of this act who is not so em-

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ployed for full time outside vacation periods. The word 'teacher' shall also include any person employed in the office of or by the superintendent of public instruction in the performance of duties pertaining to instructional services. In all cases of doubt, the retirement board shall determine whether any person is a teacher as defined in this act.

"Member."

(5) 'Member' shall mean any person included in the membership of the system as provided in section 4 of this act.

"Service."

(6) 'Service' shall mean service as a teacher as described in subsection (4) of this section and paid for by an employer as described in subsection (3) of this section.

"Prior service."

(7) 'Prior service' shall mean service as a 'teacher' or in a similar capacity outside of the state, rendered prior to the date of establishment of the system, and in case of teachers in the university of Montana rendered prior to September 1, 1939, for which credit is allowable as provided in section 5 of this act; *provided, further, that any teacher, mustered into or serving in the military forces of the United States government during the period of war, shall receive 'prior service credit' for such period of service.*

"Membership service."

(8) 'Membership service' shall mean service as a teacher rendered while a member of the retirement system.

"Creditable service."

(9) 'Creditable service' shall mean prior service plus membership as provided in Section 5 of Chapter 87, Laws of Montana, 1937, as amended by this act and designated herein as section 3.

"Beneficiary."

(10) 'Beneficiary' shall mean any person in receipt of a pension, annuity, a retirement allowance, or other benefit as provided by this act.

"Regular interest."

(11) 'Regular interest' shall mean interest at four percentum per annum compounded annually, or at such other rate as may be set by the retirement board in accordance with subsection (2) of section 7 of this act.

"Accumulated contributions."

(12) 'Accumulated contributions' shall mean the sum of all the amounts deducted from the compensation of a member or paid by a member as provided for in subsection (2), of Section 5, of Chapter 87, Laws of Montana, 1937, as amended by Section 3, of Chapter 215, of the 26th legislative assembly, and credited to his individual account in the annuity savings fund, together with interest. *Regular interest shall be computed and allowed to provide a benefit*

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at the time of retirement. Interest at the rate of three-fourths *the regular rate shall be computed and credited to the pension accumulation fund when withdrawn for any other purpose subsequent to July 1, 1945.*

"Earnable compensation." (13) 'Earnable compensation' shall mean the full rate of the compensation, pay or salary that would be payable to a teacher if he worked the full normal working time except that any compensation in excess of two thousand dollars ($2,000.00) per annum shall be used as two thousand dollars ($2,000.00) for the purpose of this system. In cases where compensation includes maintenance, the retirement board shall fix the value of that part of the compensation not paid in money.

"Average final compensation." (14) 'Average final compensation' shall mean the average annual compensation, pay or salary earnable by a member during his last ten years of service as a teacher.

"Medical board." (15) 'Medical board' shall mean the board of physicians provided for in section 3 of this act.

"Annuity." (16) 'Annuity' shall mean payments for life derived from the accumulated contributions of a member as provided in this act. All annuities shall be paid in equal monthly installments.

"Pensions." (17) 'Pensions' shall mean payments for life derived from money provided by the employer as defined in this act. All pensions shall be paid in equal monthly installments.

"Retirement allowance." (18) 'Retirement allowance' shall mean the annuity plus the pension.

"Annuity reserve." (19) 'Annuity reserve' shall mean the present value of all payments to be made on account of a member's annuity granted under the provisions of this act, computed upon the basis of such mortality tables as shall be adopted by the retirement board and regular interest.

"Pension reserve." (20) 'Pension reserve' shall mean the present value of all payments to be made on account of a pension granted under the provisions of this act, computed on the basis of such mortality tables as shall be adopted by the retirement board with regular interest.

"Actuarial equivalent." (21) 'Actuarial equivalent' shall mean a benefit of equal value when computed upon the basis of such mortality tables as shall be adopted by the retirement board and regular interest.

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(22) 'Former retirement system' shall mean the retirement system established under Sections 1113 to 1132 inclusive, of the Revised Codes of Montana, 1935." "Former retirement system."

Section 2. That Section 6 of Chapter 87 of the 25th legislative assembly of 1937, be, and the same is hereby amended to read as follows: Sec. 6, Chap. 87, laws of 1937, amended.

"6. **Benefits.**

SUPERANNUATION RETIREMENT BENEFIT

'(1) (a) Any member in service who has completed fifteen years of creditable service, the last ten years of which shall have been in this state, and who has attained the age of sixty may retire from service, if he files with the retirement board his written application setting forth at what date, not less than thirty nor more than ninety days subsequent to the filing thereof, he desires such retirement and notwithstanding that during such period of notification, he may have separated from service. Benefits—superannuation benefit.

(b) *That from and after the passage and approval of this act, any member in service who has attained the age of seventy years, during any school year shall be retired by said retirement board on the first day of September following his or her seventieth birthday.*

ALLOWANCE ON SUPERANNUATION RETIREMENT

(2) Upon superannuation retirement a member shall receive a superannuation retirement allowance which shall consist of: Allowance on superannuating retirement.

(a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement, and

(b) A pension of one-quarter of his average final compensation provided his creditable service is at least thirty-five years, otherwise, a pension of one one-hundred and fortieth (1/140) of his average final compensation multiplied by the number of years of his creditable service, and

(c) If he has a prior service certificate in full force and effect, an additional pension which shall be equal to one one-hundred and fortieth (1/140) of his average final compensation multiplied by the number of years of service certified to him on his prior service certificate.

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DISABILITY RETIREMENT BENEFIT

Disability retirement benefit.

(3) Upon the application of a member in service or of his employer, any member who has had ten or more years of creditable service in the State of Montana may be retired by the retirement board not less than thirty and not more than ninety days next following the date of filing such application on a disability retirement allowance, provided that the medical board after a medical examination of such member shall certify that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity is likely to be permanent and that such member should be retired.

ALLOWANCE ON DISABILITY RETIREMENT

Allowance on disability retirement.

(4) Upon retirement for disability a member shall receive a superannuation allowance if he is eligible for a superannuation allowance; otherwise he shall receive a disability retirement allowance which shall consist of:

(a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of retirement, and

(b) A pension which, together with his annuity, shall provide a total retirement allowance equal to ninety per centum of one-seventieth of his average final compensation multiplied by the number of years of his creditable service, if such retirement allowance exceeds one-quarter of his average final compensation; otherwise, a pension which, together with his annuity, shall provide a total retirement allowance equal to one-quarter of his average final compensation, provided, however, that no such allowance shall exceed ninety per centum of one-seventieth of his average final compensation multiplied by the number of years which would be creditable to him were his service to continue until the attainment of the minimum age for superannuation retirement.

RE-EXAMINATION OF BENEFICIARIES RETIRED ON ACCOUNT OF DISABILITY

Re-examination of beneficiaries retired on account of disability.

(5) Once each year during the first five years following the retirement of a member on disability retirement allowance, and once in every three year period thereafter the retirement board may, and upon his application shall, require a disability beneficiary who has not yet attained

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the age of sixty to undergo a medical examination by the medical board or a physician or physicians designated by the medical board, such examination to be made at the place of residence of said beneficiary or other place mutually agreed upon. Should any disability beneficiary who has not yet attained the age of sixty refuse to submit to at least one medical examination in any year by the medical board, his allowance may be discontinued until his withdrawal of such refusal, and should his refusal continue for one year, all his rights in and to his pension may be revoked by the retirement board.

Pension reduced by amount earnable.

(6) Should the medical board report and certify to the retirement board that any disability beneficiary is engaged in or is able to engage in a gainful occupation paying more than the difference between his retirement allowance and his average final compensation and should the retirement board concur in such report, then the amount of his pension shall be reduced to an amount which, together with his annuity and the amount earnable by him, shall equal the amount of his average final compensation. Should his earning capacity be later changed the amount of his pension may be further modified; provided that the new pension shall not exceed the amount of the pension originally granted, nor an amount which when added to the amount earnable by the beneficiary, together with his annuity equals the amount of his average final compensation. A beneficiary restored to active service at a salary less than the average final compensation upon the basis of which he was retired shall not become a member of the retirement system while receiving a reduced benefit.

Beneficiary restored to service.

Restoration to service, when allowance shall cease.

(7) Should a disability beneficiary under age sixty be restored to active service at a compensation not less than his average final compensation his retirement allowance shall cease; he shall again become a member of the retirement system and contribute thereto. Any prior service certificate on the basis of which his service was computed at the time of his retirement shall be restored to full force and effect and in addition upon his subsequent retirement he shall be credited with all his service as a member, and should he be restored to active service on or after the attainment of the age of fifty-five years, his pension upon subsequent retirement shall not exceed the pension that he would have received had he remained in service during the

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period of his previous retirement nor the sum of the pension which he was receiving immediately prior to his last restoration to service and the pension that he would have received on account of his service since his last restoration had he entered service at that time as a new entrant.

Contributions returnable upon withdrawal from service.

(8) (a) A member who withdraws from service or ceases to be a teacher for any cause other than death or retirement shall *be paid only the amount contributed by the member to his annuity savings account after first deducting any unpaid annual membership fees of said member.*

Contributions payable to estate of deceased member.

(b) Should a member die before retirement *only the amount of the member's contributions to his annuity savings fund account after deducting any unpaid annual membership fees shall be paid to his estate or such person as he shall* have nominated by written designation duly executed and filed with the retirement board.

OPTIONAL BENEFITS

Member may elect as to plan for receiving benefits.

(9) With the provision that no optional selection shall be effective in case a beneficiary dies within thirty days after retirement, and that such a beneficiary shall be considered as an active member at the time of his death; until the first payment on account of any benefit becomes normally due, any member may elect to receive his benefit in a retirement allowance payable throughout life as hereinabove provided, or he may on retirement elect to receive the actuarial equivalent at that time of his retirements allowance in a lesser retirement allowance payable throughout life with the provision that:

Balance of contributions payable to representative.

Option 1. If he dies before he has received in payment of his annuity the amount of his accumulated contributions as they were at the time of his retirement, the balance shall be paid to his legal representative or to such person as he shall nominate by written designation duly acknowledged and filed with the retirement board; or

Reduced retirement allowance payable to nominee.

Option 2. Upon his death, his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the retirement board at the time of his retirement; or

Option 3. Upon his death, one-half of his reduced retirement allowance shall be continued throughout the life

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of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the retirement board at the time of his retirement; or

One-half to nominee.

Option 4. Some other benefit or benefits shall be paid either to the member or to such person or persons as he shall nominate by written designation duly acknowledged and filed with the retirement board at the time of his retirement, provided such other benefit or benefits, together with the lesser retirement allowance shall be certified by the actuary to be of equivalent actuarial value to his retirement allowance and shall be approved by the retirement board."

Other benefits.

Section 3. That Section 8, of Chapter 87, of the Laws of 1937, as amended by Chapter 202, of the 26th legislative assembly, be, and the same is hereby amended to read as follows:

"Section 8. **Method of Financing.** There are hereby created and established an 'annuity savings fund', an 'annuity reserve fund', a 'pension accumulation fund', a 'pension reserve fund' and an 'expense fund', into which funds all of the assets of the retirement system shall be credited according to the purpose for which they are held as hereinafter prescribed.

Funds created.

ANNUITY SAVINGS FUND

(1) The annuity savings fund shall be a fund in which shall be accumulated the contributions from the compensation of members to provide for their annuities. Contributions to and payments from the annuity savings fund shall be made in the following manner:

Annuity savings fund.

(a) Each employer shall deduct from the compensation of each member on each and every payroll of such member for each and every payroll period subsequent to the date on which such member became a member an amount equal to five per centum of such member's earnable compensation but no employer shall make any deductions for annuity purposes from the compensation of a member who has attained the age of sixty and rendered thirty-five years of creditable service if such a member elects not to contribute.

Amount deductible from compensation by employer.

(b) In determining the amount earnable by a member in a payroll period, the retirement board may consider the rate of compensation payable to such member on the first day of the payroll period as continuing throughout such

Determination of amount earnable.

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payroll period, and it may omit deductions from compensation for any period less than a full payroll period if a teacher was not a member on the first day of the payroll period, and to facilitate the making of deductions, it may modify the deduction required of any member by such an amount as shall not exceed one-tenth of one per centum of the annual compensation upon the basis of which said deduction is to be made.

Payment of salary less deductions provided for herein to fully discharge claim for services rendered.

(c) The deductions provided for herein shall be made notwithstanding that the minimum compensation provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made and provided for herein and shall receipt in full for his salary or compensation; and payment of salary or compensation less said deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by such person during the period covered by such payment except as to the benefits provided by this act.

Default in state's contributions.

(d) Notwithstanding the preceding provision, no deduction shall be made from any member's salary on account of which the state's contributions on his account are in default.

Member may redeposit withdrawn contributions.

(e) In addition to the contributions deducted from compensation as hereinbefore provided, subject to the approval of the retirement board, any member may redeposit in the annuity savings fund by a single payment or by an increased rate of contribution an amount equal to the total amount which he previously withdrew therefrom as provided in this act, or any part thereof; or any member may deposit therein by a single payment or by an increased rate of contribution amounts for the purchase of an additional annuity, but such additional payments shall not exceed the amounts computed to provide with his prospective retirement allowance a total retirement allowance of one-half of his average final compensation at the minimum age at which the member will become eligible for superannuation retirement. Such additional amounts so deposited shall become a part of his accumulated contributions, except in the case of disability retirement, when they shall be treated as excess contributions returnable to the member in cash or as an annuity of equivalent actuarial value and shall not be considered in computing his pension. The accumulated contributions of a member withdrawn by him, or paid to his estate or to his designated beneficiary in event of his death

Deposits for additional annuity.

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as provided in this act, shall be paid from the annuity savings fund, and an amount equivalent to the difference between the accumulated contributions calculated at regular interest and the amount paid shall be transferred to the expense fund. Upon the retirement of a member his accumulated contributions shall be transferred from the annuity savings fund to the annuity reserve fund.

ANNUITY RESERVE FUND

Annuity reserve fund.

(2) The annuity reserve fund shall be the fund in which shall be held the reserves on all annuities in force and from which shall be paid all annuities and all benefits in lieu of annuities, payable as provided in this act. Should a beneficiary retired on account of disability be restored to active service with a compensation not less than his average final compensation at the time of his last retirement his annuity reserve shall be transferred from the annuity reserve fund to the annuity savings fund and credited to his individual account therein.

PENSION ACCUMULATION FUND

Pension accumulation fund.

(3) The pension accumulation fund shall be the fund in which shall be accumulated all reserves for the payment of all pensions and from which pensions and benefits in lieu thereof shall be paid to or on account of beneficiaries credited with prior service. Contributions to and payments from the pension accumulation fund shall be made as follows:

Each employer to pay into pension accumulation fund.

(a) *Each and every employer shall pay into the pension accumulation fund an amount equal to three and one-half per centum (3½%) of the earnable compensation of each member employed during the whole or such part of the preceding payroll period as such member was so employed by such employer; provided, however, that no payments shall be made into said pension accumulation fund until after July 1, 1945.* Provided, further, until such time as the legislative assembly shall provide adequate funds for the establishment of such reserves as are set up in this act, such parts of such act as deal with reserves to be built up by contributions from the state shall be inoperative.

Appropriation by school trustees.

(b) *The board of trustees of every school district maintaining an elementary school, or schools, the board of trustees of every school district maintaining a high school, and*

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the board of trustees of every county high school shall, in the respective budgets for such schools, make and provide an appropriation for such payments to the pension accumulation fund.

Special levy not required, when.

(c) *When the total amount required for the elementary school budget of any district, including the amount to be paid into the pension accumulation fund will not require a levy against the property in the district in excess of ten (10) mills, no special or additional levy shall be made but the whole amount shall be paid out of the receipts from the levy authorized by Section 1203, Revised Codes of Montana, 1935.*

Special tax levy to be made, when.

(d) *When the total amount required for the elementary school budget for any district, including the amount to be paid into the pension accumulation fund, will require a levy more than ten (10) mills, a special levy against the taxable property in the district must be made in such number of mills as will raise the total amount for the payment to the pension accumulation fund, without being authorized at any election.*

County-wide tax levy for amount to be paid by high schools.

(e) *The total amount to be paid by each high school within each county to the pension accumulation fund shall be raised by a county-wide tax levy, and the county commissioners, except as hereinafter provided, shall make a county-wide levy of such number of mills as will raise such total amount; provided that the amount budgeted for payment to the pension accumulation fund in any high school budget shall not be deemed or considered as a part of or as included within the maximums for high school budgets as fixed and determined by Section 1263.5, Revised Codes of Montana, 1935, as amended, and the county-wide high school levy herein provided for shall not be deemed or construed as a part of the county-wide high school levy authorized by Section 1263.11, Revised Codes of Montana, 1935, as amended, unless the trustees making such budget so desire and the board of county commissioners find that such levy is not required to raise the amount necessary for such budget for all purposes including the payment to the pension accumulation fund.*

Appropriation to be made for payments on the part of the state.

(f) *The legislative assembly shall, in its appropriation for the maintenance and operation of the office of the state superintendent of public instruction, the state orphans home, the Montana state training school, the Montana state deaf and blind school, the state vocational school for girls,*

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and the Montana state industrial school, include and provide appropriations in such an amount as will be sufficient to make such payments into such pension accumulation fund as may be required by reason and on account of such state superintendent of public instruction and such employees of such office and institutions as may be members.

Appropriation to be made by state for payments on account of teachers of university of Montana.

(g) *The legislative assembly shall, in its appropriations for the maintenance and operation of the university of Montana, and its several departments and schools, include and provide appropriations in such an amount as will be sufficient to make such payments into the pension accumulation fund as may be required by reason or on account of such teachers of such university, and its several schools and departments, as may be members; provided that all such appropriations shall be made from the university millage fund or appropriations made by the legislature.*

County shall budget for payments on account of county superintendent and employees of that office.

(h) *The board of county commissioners of each county shall, in the budget covering appropriations for the maintenance and operation of the office of the county superintendent of schools, include and provide such an amount as will be sufficient to make such payments into such pension accumulation fund as may be required by reason and on account of such county superintendent and such other employees of such office as may be members.*

Normal contribution rate.

(i) On the basis of regular interest and of such mortality and other tables as shall be adopted by the retirement board, the actuary engaged by the retirement board to make each valuation required by this act during the period over which the deficiency contribution is payable, immediately after making such valuation, shall determine the uniform and constant percentage of the earnable compensation of the average new entrant, which if contributed on the basis of the compensation of such member throughout his entire period of active service, would be sufficient to provide for the payment of any pension payable by the state on his account. The rate per centum so determined shall be known as the 'normal contribution' rate. After the deficiency contribution has ceased to be payable, the normal contribution rate shall be the rate per centum of the earnable salary of all members obtained by deducting from the total liabilities of the pension accumulation fund the amount of the funds in hand to the credit of that fund and dividing the remainder by one per centum of the present value of the prospective future salaries of all members as computed on

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the basis of the mortality and service tables adopted by the retirement board and on the basis of regular interest. The normal rate of contribution shall be determined by the actuary after each valuation.

Deficiency contribution.

(j) Immediately succeeding the first valuation the actuary engaged by the retirement board shall compute the rate per centum of the total annual compensation of all members which is equivalent to four per centum of the amount of the total pension liability on account of all members and beneficiaries not dischargeable by the present assets of the pension accumulation fund and the aforesaid normal contribution if made on account of such members during the remainder of their active service. The rate per centum, originally so determined, shall be known as the 'deficiency contribution'. Provided such rates shall not go into effect until the year 1939-40.

Amount payable by state.

(k) The total amount payable annually by the State of Montana into the pension accumulation fund shall be not less than the sum of the rates per centum known as the normal contribution rate and the deficiency contribution rate of the total compensation earnable by all members during the preceding school year, provided, however, that the amount of each annual deficiency contribution shall be at least three per centum greater than the preceding annual deficiency payment, and that the aggregate payment into the pension accumulation fund shall be sufficient, when combined with the amount in the pension accumulation fund, to provide the pensions payable out of the fund during the current year.

Discontinuance of deficiency contribution.

(l) The deficiency contribution shall be discontinued as soon as the accumulated reserve in the pension accumulation fund shall equal the present value, as actuarially computed and approved by the retirement board, of the total liability of such fund less the present value, computed on the basis of the normal contributions to be received on account of teachers who are at that time members.

Interest and dividends earned.

(m) All interest and dividends earned on the funds of the retirement system shall be credited to the pension accumulation fund and the amounts required to allow regular interest on the annuity savings fund, the annuity reserve fund and the pension reserve fund shall be transferred to the respective funds from the pension accumulation fund.

(n) All pensions and benefits in lieu thereof, including

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pensions payable under section 12, with the exception of those payable to members not entitled to prior service credit shall be paid from the pension accumulation fund.

Pensions payable from pension accumulation fund.

(o) All moneys and securities to the credit of the public school teachers' retirement salary fund and the public school teachers' permanent fund on the first day of September, nineteen hundred and thirty-seven, shall be paid by the state treasurer into the pension accumulation fund.

Moneys in certain funds to be paid into pension accumulation fund.

(p) The retirement board may in its discretion transfer to and from the pension accumulation fund the amount of any surplus or deficit which may develop in the reserve creditable to the annuity reserve fund or the pension reserve fund, as shown by actuarial valuation, *and also such expenses as hereinafter provided.*

Transfers to and from pension reserve fund.

(q) Upon the retirement of a new entrant, an amount equal to his pension reserve shall be transferred from the pension accumulation fund to the pension reserve fund.

PENSION RESERVE FUND

Pension reserve fund.

(4) The pension reserve fund shall be the fund in which shall be held the reserves on all pensions granted to members not entitled to prior service credit and from which shall be paid such pensions and benefits in lieu thereof. Should a member not entitled to prior service credit who has been retired on account of disability be restored to active service with a compensation not less than his average final compensation at the time of his last retirement, the pension reserve held on account of his pension shall be transferred from the pension reserve fund to the pension accumulation fund. Should the pension of such a disability beneficiary be reduced as a result of an increase in his earning capacity the amount of annual reduction in his pension shall be paid annually into the pension accumulation fund during the period of such reduction.

Transfer of pension reserve from that fund to pension accumulation fund.

EXPENSE FUND

Expense fund.

(5) The expense fund shall be the fund to which shall be credited all moneys contributed for the administrative expenses of the retirement system and from which the expenses of administration of the retirement system shall be paid exclusive of amounts payable as retirement allowance and as other benefits provided herein. Contributions shall be made to the expense fund as follows:

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Deduction by employers for expense fund.

(a) The retirement board shall determine annually the amount required to defray such expense in the ensuing fiscal year. There shall be deducted from the compensation of each member by the several employers the sum of one dollar for each year, in addition to all other deductions herein provided, which sum shall be transmitted to the retirement board in the same manner as herein provided for the transmission of other member contributions, and such sums so deducted shall become a part of and be charged to, said expense fund, and shall not become a part of the members' accumulated contributions.

Transfer to expense fund.

(b) The amount equivalent to the difference between the accumulated contributions calculated at regular interest and the amount paid at withdrawal or death shall be transferred to the expense fund.

Transfer to expense fund from pension accumulation fund, when.

(c) The expense not payable by contributions of members and amounts transferred from the annuity savings fund as provided under paragraph (b) of this subsection *shall be paid by a transfer by the retirement board from the pension accumulation fund to the expense fund at the beginning of each fiscal year of a sum sufficient to meet the expense fund budget estimate of the ensuing fiscal year beginning July 1st and ending June 30th.*"

Repealing clause.

Section 4. All acts and parts of acts in conflict herewith are hereby repealed.

Severability.

Section 5. If any section, subdivision, paragraph, sentence, clause, or part of this act is declared to be unconstitutional, the remainder of this act shall not thereby be invalidated.

Approved February 28, 1945.

CHAPTER 138

An Act to Require the State Furnishing Board to Provide a Room On the Third Floor of the Capitol Building, Adjacent to the Hall of the Senate, for the Use of Representatives of the Press, to Be Used As a Permanent Press Room.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the state furnishing board be, and the same hereby is required to provide for the use of represen

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tatives of the press, a room on the third floor of the capitol building, adjacent to the assembly hall of the senate, to be used as a permanent press room. Permanent press room to be provided.

Section 2. This being an emergency act, shall be in full force and effect immediately after its passage and approval. Effective date.

Approved February 28, 1945.

CHAPTER 139

An Act to Amend Section 1763 Revised Codes of Montana 1935 As Amended by Chapter 88 of the Session Laws of the Twenty-eighth Legislative Assembly of Montana 1943, Relating to Definitions of Terms Used in the Motor Vehicle Registration Laws.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 1763 of the Revised Codes of Montana 1935 as amended by Chapter 88 of the Session Laws of the twenty-eighth legislative assembly 1943 shall be and the same is hereby amended to read as follows: Sec. 1763, R. C. 1935, as amended, further amended.

"1763. **Definitions.** The words and phrases used in this act shall be construed as follows, unless the context may otherwise require: Definitions.

a. The words 'motor vehicle' shall include all vehicles which are self-propelled, except road rollers, traction engines and railroad cars, farm tractors, and motor cars run upon stationary rails or tracks. "Motor vehicle."

b. The term 'motor-cycle' shall mean a motor vehicle having not more than three (3) wheels in contact with the ground and a saddle on which the operator sits astride, or a platform on which he stands, and bicycles having a motor attachment thereto and a driving wheel in contact with the ground, in addition to the wheels of the vehicle itself, but a motor-cycle may carry one or more attachments and a seat for the conveyance of a passenger. "Motorcycle."

c. The term 'motor truck' shall include all motor vehicles designed or used for the transportation of commodities, merchandise, produce, freight or animals. "Motor truck."

d. The term 'trailer' shall include every vehicle without motive power, designated to carry property or passengers "Semi-trailer."

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wholly on its own structure and to be drawn by a motor vehicle.

e. The term 'semi-trailer' shall include every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another vehicle.

"Owner." f. The term 'owner' shall include any person, firm, association or corporation owning or renting a motor vehicle, or having the exclusive use thereof, under lease or otherwise, and shall also include a contract vendee.

"Dealer." g. The term 'dealer' shall mean *and include any person, firm, or corporation engaged in whole or in part in the business of buying, selling, repairing, and reconditioning either new or used motor vehicles, or both, and who maintains a place of business with adequate facilities and equipment for the servicing, repair, maintenance, and reconditioning of new or used motor vehicles and also adequate display facilities for at least one motor vehicle, and no person, firm or corporation shall be issued a dealer's license by the registrar of motor vehicles unless they qualify as a dealer defined herein, provided, however, that a used car dealer only shall have an established place of business and need no facilities for repair, maintenance and reconditioning of used cars.*

"Trailer dealer." h. *'Trailer dealer' shall mean and include any person, firm or corporation engaged in whole or in part in the business of buying or selling trailers or semi-trailers with facilities for displaying one or more trailers or semi-trailers.*

"Vehicle." i. The term 'vehicle' shall include any motor vehicle as herein defined.

"Used motor vehicle." j. The term 'used motor vehicle' shall include any motor vehicle which has been sold, bargained, exchanged, given away or title transferred from the person who first took title to it from the manufacturer or importer, dealer or agent of the manufacturer or importer, and so used as to have become what is commonly known as 'second-hand' within the ordinary meaning thereof.

"Manufacturer." k. The term 'manufacturer' shall include any person, firm, corporation or association engaged in the manufacture of any motor vehicles, trailers, or semi-trailers as a regular business."

Repealing clause. Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

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Section 3. This act shall be in full force and effect from and after its passage and approval Dec. 31, 1945. Effective date.

Approved February 28, 1945.

CHAPTER 140

An Act to Amend Section 2815.135 of the Revised Codes of Montana 1935, Relating to the Seizure of Liquor by Any Inspector or Peace Officer and Authorizing the Montana Liquor Control Board to Start Suit Against Said Liquor to Have Said Liquor Declared to Be Contraband and Forfeited to the State of Montana; and Requiring Any Person Claiming a Right to Possession of Said Liquor to Show His Right to Possession.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 2815.135 of the Revised Codes of Montana 1935 be and the same is hereby amended to read as follows: Sec. 2815.135, R. C. 1935, amended.

"Section 2815.135. **Force May Be Used in Seizure of Liquor, When—Retention of Seized Liquor—Forfeiture—Hearing.**

(1) Where liquor is found by any inspector or peace officer on any premises or in any place in such quantities as to satisfy the inspector or peace officer that such liquor is being had or kept contrary to any of the provisions of this act, it shall be lawful for the inspector or peace officer to forthwith seize and remove, by force if necessary, any liquor so found, and the packages in which the liquor was had or kept *and immediately turn said liquor over to the Montana liquor control board.* Seizure of liquor by force authorized, when.

(2) *The Montana liquor control board shall commence an action in the district court of the county in which the liquor is found and seized against said liquor and the person or persons actually or apparently in possession or control thereof if any such person be present at the time of the seizure. The said liquor shall be named as one of the defendants to said action.* Court action against seized liquor and its possessor.

(3) *The complaint shall show the date and place of seizure, the name of the person or persons actually or apparently in possession or control thereof if any such person be present at the time of the seizure, the reasons the Montana* Complaint, forforfeiture of liquor.

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liquor control board claims the right to the possession of said liquor and shall demand that all persons who claim any right to the possession of said liquor shall show the nature of their claim or claims and that the court declare said liquor contraband and that the court order said liquor be forfeited to the State of Montana.

Summons.

(4) *Summons shall be issued, served or published as in other civil actions provided by the code of civil procedure of Montana, except that the summons shall be published in the county where said liquor was seized if a newspaper is published in said county.*

Absence of seal on container as prima facie evidence.

(5) *In all actions brought under this act, proof of the absence of the official seal of the Montana liquor control board upon the bottle, jug, package, container or containers of such liquor shall be prima facie evidence that said liquor is contraband liquor and prima facie evidence of unlawful possession thereof in the defendants and each of them and in all other persons excepting the Montana liquor control board, and the court shall order all such liquor contraband and forfeited to the State of Montana.''*

Effective date.

Section 2. This act shall be in full force and effect from and after its passage and approval

Approved February 28, 1945.

CHAPTER 141

An Act to Create An Official Board to Be Known As "The Montana Poultry Improvement Board"; Designating the Powers and Duties of Such Board, Including the Powers to Issue and Sell Licenses to Breeders, Hatchers and Distributors of Poultry and to Cancel the Same, Make Rules and Regulations As to Advertising and Labeling of Products for Sale, Prohibiting the Sale of Any Poultry or Products by Others Than Licensees Under Any Classification As to Grade, Breed or Quality, Or As to Physical Condition, Other Than Unclassified, Authorizing Cooperation With the Montana Livestock Sanitary Board, Providing for Inspections As to Communicable Infectious Diseases; Providing for License Fees and the Collection Thereof; Providing for the Dispensation Other Than Actual Traveling and Subsistence Expenses; Providing for a Montana Poultry Improvement Fund; Providing

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Penalties for Violations of the Act, and Providing for An Appropriation Therefor.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **The Montana Poultry Improvement Board Created.** For the purpose of fostering the development of the poultry industry of the State of Montana, particularly through the improvement of breed type and productiveness of poultry flocks and through the control of affording protection to buyers of poultry breeding stock by providing and indicating dependable sources from which poultry may be purchased, there is hereby created a body to be known as "The Montana Poultry Improvement Board" which shall be constituted as follows: The Montana livestock sanitary board executive officer, inspector in charge, dairy division, state department of agriculture, extension specialist in poultry, Montana state college and two other members who shall be competent and experienced poultrymen and who shall be owners or operators of commercial poultry hatcheries, to be appointed by the governor of the State of Montana, one member to hold office for a term of two years and one member to hold office for a term of four years from and after the first day of July, 1945, respectively and thereafter the members of said Montana poultry improvement board who are competent and experienced poultrymen so appointed by the governor, shall hold office for a term of four years from and after their appointment and until their successors are appointed and qualify.

Montana poultry improvement board created.

Term of office of members.

Section 2. **Definitions.** As used in this act unless the context otherwise requires, "board" means the state agency created by this act to be known as "The Montana Poultry Improvement Board."

Definitions.

"Person" means any person, firm, corporation or association.

"Person."

"Breeder" means any person, firm, corporation or association that breeds, handles or deals in chickens, ducks, geese, turkeys or other domestic fowl.

"Breeder."

"Hatcher" means any person who is in the business of hatching the eggs of chickens, ducks, geese, turkeys or other domestic fowl by natural or artificial means.

"Hatcher."

"Distributor" means any person, who is in the business of distributing, selling, or otherwise disposing of to the pub-

"Distributor."

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lic of baby, young or other chickens, ducks, geese, turkeys or other domestic fowl, or eggs for hatching purposes including what is known as "over the counter sale" of baby chicks.

"Hatching egg-producer."

"Hatching-egg-producer" means any person who keeps poultry and from such poultry produces eggs for sale or other disposal for hatching purposes.

"Poultry."

"Poultry" means chickens, ducks, geese, turkeys or other domestic fowl.

Board to serve without compensation.

Section 3. **Board to Serve Without Compensation.** The members of the Montana poultry improvement board shall serve without compensation as such, but the expenses of each, necessarily incurred in the discharge of his duties, shall be paid by the state. Within thirty (30) days after this act goes into effect, the board shall meet and elect a president and a vice-president and do such other things as are needful to initiate the work provided for in this act. The board shall hold quarterly meetings at the seat of government on the first Tuesday after the first Monday in January, April, July and October. Officers shall be elected at the April meeting. Special meetings may be held upon the call of the president of the board. Three members shall constitute a quorum.

Organization and meetings.

Powers and duties of board.

Section 4. **Powers and Duties.** The Montana poultry improvement board shall have power to employ a secretary and executive officer who need not be a member of the board, for a term of one year and until his successor is appointed and qualified. The said secretary and executive officer shall be a competent poultryman. The board may also employ and dismiss at will such other persons including legal assistance, as may be necessary to carry out the provisions of this act and to fix all fees and salaries to provide for expenses generally not inconsistent with law. The board is further authorized and directed to formulate and adopt a plan or plans whereby licensed poultry breeders or licensed hatching-egg-producers may have their poultry inspected by employees of the board or such other persons as may be designated by the board, upon the payment by such licensees of such fees, if any, as the board may deem necessary or advisable, and may have their poultry culled, inspected and supervised to the end that such poultry may be accredited and certified for grade, breed and quality, and the board is also authorized to form rules, regulations and

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plans for the presentation of evidence and for making inspections of licensed hatcheries and licensed poultry distributing business, so that such hatcheries and such distributing business may after such inspection and investigation as may be required by the board, be accredited and certified as hatching, selling and distributing poultry produced from eggs of certified poultry and that sellers and distributors of hatching eggs may likewise have their products so examined and investigated so that they may be accredited under this act, and that upon such inspections and investigations being made that said board authorize such licensed breeders, producers of hatching eggs, hatcheries and distributors of poultry and hatching eggs, to advertise and label the poultry and eggs in accordance with the findings of such board, in such terminology as the board may designate. The board may adopt the standard breeding plan of accreditation and certification sponsored by the United States department of agriculture or any other plan sponsored by said department and to cooperate with said department in matters of poultry improvement, sanitary provisions and indemnity in cases of infectious disease. The board is further authorized to prescribe and collect fees for inspection and supervision and to prescribe and furnish labels, leg bands and certificates of accreditation and certification and such other supplies as may be necessary and to prescribe and collect fees for the same. The board is further authorized to do such other things as it may deem needful and expedient to improve poultry breeding and practices and to give effect to this act.

Section 5. **License Fees.** All persons becoming licensed under the provisions of this act shall pay a yearly license fee to the State of Montana as follows: License fees.

(a) Breeders, hatching-egg-producers, the sum of $1.00 up to 200 breeder hens; $2.50 up to 400 breeder hens; $5.00 up to 800 breeder hens; $7.50 up to 1,000 breeder hens; $10.00 over 1200 breeder hens per year.

(b) Hatcheries, the sum of $1.00 plus 50 cents per thousand eggs or fraction thereof upon manufacturer's rated incubator capacity per year, provided however, that such persons as hold hatchery licenses may breed, produce hatching-eggs, and distribute under the hatchery license, provided the necessary inspections and investigations are made for entering into such other activities and a favorable showing is made to the board.

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(c) Baby chick and/or turkey poult jobbers and salesmen: Annual license fee of $1.00 plus 50 cents per thousand (1,000) chicks and/or poults or fractions thereof sold per year.

Advertising and selling of poultry.

Section 6. **Advertising and Selling of Poultry.** It is hereby made unlawful for any person, other than a breeder, hatching-egg-producer, hatchery, or distributor, duly licensed under the provisions of this act, to advertise, advertise for sale, sell, trade or otherwise dispose of any poultry, or eggs for hatching purposes, under any classification as to grade, breed or quality or as to health conditions, other than as unclassified, and it shall be unlawful for any of the above mentioned licensees to advertise, advertise for sale, sell, trade or otherwise dispose of any poultry under any classification other than the classification designated to such licensee by the board. The board may require the submission of all advertising matter for inspection at any time.

Disposition of fees.

Section 7. **Disposition of Fees.** All fees collected under this act shall be deposited in the state treasury to the credit of the Montana poultry improvement board.

Cooperation between board and Montana livestock sanitary board.

Section 8. **To Cooperate with the State Livestock Sanitary Board.** The Montana poultry improvement board shall cooperate with the Montana livestock sanitary board in all ways consistent with law, provided that the Montana livestock sanitary board shall have exclusive jurisdiction and control over all matters pertaining to poultry diseases and the control and eradication thereof. And, the Montana livestock sanitary board is hereby authorized to formulate, adopt and enforce rules and regulations whereby owners of poultry breeding flocks may, upon agreement with the said board, have such flocks examined, tested and officially designated as tested, approved or accredited free from bacillary white diarrhea, tuberculosis or other communicable infectious diseases when and as approved methods for official testing for such other diseases may be adopted by the said board; provided there are necessary personnel and available funds appropriated for the use of the said board in making such tests and inspections. In order to distinguish eradication of specific diseases, the abbreviations for the disease shall be prefixed to the words "tested", "approved", or "accredited" as "T. B. Tested", "T. B. Approved", and "T. B. Accredited" for tuberculosis and "Pullorum Tested", "Pullorum Controlled", "Pullorum

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Passed'' and ''Pullorum Clean'' for bacillary white diarrhea.

Products to be labeled.

Section 9. **Products to Be Labeled.** All poultry and products sold or shipped under the authority of this act shall be uniformly labeled with designs prescribed and furnished by the Montana poultry breeders, hatchers and distributors, provided that all labeling for testing, approval and accreditation as to disease shall be first approved by the Montana livestock sanitary board.

Certain advertising prohibited.

Section 10. **Certain Advertising Prohibited.** No person, firm, association, partnership or corporation shall use its literature, advertising material or on selling or shipping labels or otherwise the words ''tested'', ''approved'', ''accredited'', or ''certified'' or words of similar meaning in conjunction with either the word ''state'' or the word ''Montana'' or both of them as related to a poultry hatchery or a poultry breeding clock except under the authority of this act.

Certificates may be cancelled for violation of act.

Section 11. **May Cancel Certificates.** In his discretion the secretary and executive officer of the Montana poultry improvement board may cancel any certificate of accreditation or certification issued under the authority of his board, and likewise the secretary and executive officer of the Montana livestock sanitary board may cancel any certificate of testing, approval or accreditation issued under the authority of his board for violation of this act or any rule or regulation adopted hereunder; and any person, firm, association, partnership or corporation who shall violate any provision of this act or any regulation adopted hereunder shall be guilty of a misdemeanor.

Violation constitutes misdemeanor.

Section 12. **Violation a Misdemeanor.** Violation of any of the provisions of this act shall be a misdemeanor.

Appropriation for 1945-46.

Section 13. There is hereby appropriated from the Montana poultry improvement fund for the period commencing July 1, 1945 and July 1, 1946 all amounts in the Montana poultry improvement fund, or so much thereof that may be necessary for the payment of the expenses of the Montana poultry improvement board, and in addition thereto to be effective when the Montana poultry improvement fund shall be exhausted from the state general fund for the above purposes, two thousand five hundred ($2,500) dollars or so much thereof that may be necessary.

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Appropriation for 1946-47.

There is hereby appropriated from the Montana poultry improvement fund for the period commencing July 1, 1946 and ending July 1, 1947 all amounts in the Montana poultry improvement fund, or so much thereof that may be necessary for the payment of the expenses of the Montana poultry improvement board, and in addition thereto to be effective when the Montana poultry improvement fund shall be exhausted from the state general fund for the above purposes two thousand five hundred ($2,500) dollars or so much thereof that may be necessary.

Repealing clause.

Section 14. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 28, 1945.

CHAPTER 142

An Act Relating to the Licensing of Slot Machines; Providing for a State License and Optional County and City Licenses and for the Payment of License Fees for the Possession, Use or Operation of Slot Machines by Religious, Fraternal or Charitable, or Nonprofit Organizations; Providing Penalties for the Violation of This Act and Procedure for the Enforcement Thereof by the State Board of Equalization; Defining the Terms Used in This Act; Prohibiting Minors from Playing Slot Machines; Making an Appropriation to Carry Out the Provisions of This Act and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Restrictions as to operators of slot machines.

Section 1. No slot machine shall hereafter be used, operated, kept or maintained for use or operation within the State of Montana by any person or persons whomsoever save and except as in this act provided. In addition to its ordinary meaning the word "persons" includes both natural and artificial persons and embraces all partnerships, corporations, associations, societies and all other persons of every sort and kind.

"Persons" defined.

Sec. 11,159, R. C. 1935, as amended declared to be in effect.

Section 2. The provisions of the so-called "Hickey Law", Section 11,159, Revised Codes of Montana of 1935 as amended by Chapter 153, Session Laws of Montana of

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1937, prohibiting the running, keeping or operating of slot machines, are hereby declared to be in full force and effect.

Section 3. Religious organizations, fraternal organizations, charitable, or nonprofit organizations, before using, operating, keeping and maintaining for use, slot machines, must first procure the license and pay the license fee provided by this act, provided however, that such religious organizations, fraternal organizations, charitable or nonprofit organizations are the sole and complete owners of said slot machines, and that the entire profit, if any therefrom, shall go to said organizations.

License required.

Condition.

Section 4. The state board of equalization is hereby authorized, empowered and directed to collect the license fees herein provided for. All monies received from said state licenses, shall be paid over by the state board of equalization to the state treasurer and deposited to the credit of a fund hereby created, known as the "slot machine license fund". Out of said fund there shall be paid, on claims regularly presented against the state and approved by the state board of examiners, the cost of enforcing this act, including the salaries and traveling expenses of all agents or employees necessarily employed by the state board of equalization, and all other expenses of enforcing the provisions of this act.

Slot machine license fund.

At the end of each quarter year, commencing with the quarter ending September 30, 1945, the state treasurer shall deposit in the general fund of the State of Montana any unexpended balance in said slot machine license fund in excess of ten thousand ($10,000.00) dollars.

Surplus to be deposited in state general fund.

All licenses, both state, county and city, provided for by this act, shall be issued, and the license fee for same shall be paid annually not later than the fifteenth (15th) day of January of the year for which such license is obtained. Licenses for the year 1945 shall however be issued on or before July 15, 1945, and shall be issued for the remainder of the year 1945 and at one-half (½) of the license fees provided for by this act.

Date for issuing licenses.

Section 5. A license for the operation of any slot machine or slot machines within the State of Montana shall first be procured from the state board of equalization of the State of Montana (hereinafter referred to as the "board"), by any of the organizations or persons enumerated in sec-

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Schedule of fees for licenses.

tion three (3) of this act, desiring to use or operate the same, and the annual license fee shall be as follows: A license fee of two hundred ($200.00) dollars per annum per machine shall be paid to the board for such license in cities of over ten thousand (10,000) population according to the last United States census; in all cities or towns with a population of over five thousand (5,000) and less than ten thousand (10,000) such persons and organizations shall pay a license fee of one hundred ($100.00) dollars per machine per annum; in all cities or towns with a population of less than five thousand (5,000) such persons and organizations shall pay an annual license fee of fifty ($50.00) dollars per machine per annum; all organizations not operating within the limits of the incorporated city or town shall pay an annual license fee of fifty ($50.00) dollars per annum per machine. For each separate slot in any slot machine an additional license fee equivalent to the fee hereinbefore provided for, shall be paid.

Slot machine defined.

Section 6. A slot machine is herein defined as a machine operated by inserting a coin, token or trade check therein by the player and from the play of which he obtains, or may obtain, money, checks, chips or tokens redeemable in money.

Counties, cities and towns may also license.

Section 7. In addition to the state license fee herein provided for, any county, city or incorporated town of the state may, in the discretion of its board of county commissioners, city or town council or other governing body of such city, license and impose an additional license tax of

Fees.

not to exceed one-half (½) of the license fees herein provided for in the case of counties and not to exceed one-fourth (¼) of the license fee herein provided for in the case of cities and towns for each and every slot machine operated in said county, city or town. Such licenses shall be issued by the county, city or town treasurer and the fees for same shall be credited to the county poor fund in the case of counties and to the city or town general fund in the case of cities and towns.

Licenses shall not permit minors to play machines.

Section 8. No licensee shall permit any person under the age of majority to play any slot machine used, operated or maintained by said licensee or to loiter about the premises where such slot machine is kept or operated. Any violation of the provisions of this section shall constitute a misdemeanor and be punishable as provided in section 10 of this act.

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Section 9. The form of licenses to be issued under this act shall be prescribed by the state board of equalization. Said board shall also promulgate the forms to be used in applying for such licenses and may require the applicant for such license to state in his application such facts as the board may deem necessary to enable it to pass upon such application, including the name and address of the applicant and the premises where said slot machine or machines are to be kept and operated and such other information as the board may require. The making of any false statement in said application shall constitute a misdemeanor and be punishable as provided in section 10 of this act. Each machine licensed under this act shall at all times have attached to it an official stamp or marker prescribed by the state board of equalization, showing that the tax provided by this act has been paid.

Forms to be prescribed by state board of equalization.

Section 10. Any person, partnership, club, society, fraternal order, corporation, co-operative association or any other individual or organization which has not been issued a license under this act and which maintains for use or permits the use of any slot machine as herein defined, on any place or premises owned, occupied or controlled by him or it, shall be guilty of a misdemeanor and shall be punishable by a fine of not less than one hundred ($100.00) dollars, nor more than five hundred ($500.00) dollars, or by imprisonment in the county jail for not less than thirty (30) days nor more than six (6) months, or by both such fine and imprisonment. Any violation of the provisions of this act by any licensee shall subject such licensee upon conviction to a revocation of his or its license and said licensee shall be ineligible to apply for or receive a slot machine license for a period of one (1) year after such revocation.

Penalty.

Revocation of license.

Section 11. All acts or parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved February 28, 1945.

CHAPTER 143

An Act to Authorize the Automatic Registration by Oath Upon Voting, and the Voting, by Electors of the State of Montana in the Military Service of the United States, in All General County, State and National Elections During

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the Temporary Absence of Such Electors from Their Voting Precincts by Reason of Such Military Service; Defining the Terms "Ballot" and "Elector in Military Service"; Prescribing Forms for Registration; Prescribing Duties of County Clerks, Election Officials, and Other Officers; Modifying the General Election Laws and Temporarily Suspending the Same; Providing for the Payment of the Expenses of Administering This Act; Fixing the Expiration Date of This Act; Providing for the Suspension of Election Laws, Under the Conditions Named Herein; Making This Act Effective Upon Its Passage and Approval, and Repealing Chapter 101, Laws of the Twenty-eighth Legislative Assembly of Montana, 1943.

Be it enacted by the Legislative Assembly of the State of Montana:

Intent of act.

Section 1. **Intent.** The intent and purpose of this act is to make it possible, and as convenient as circumstances will permit, for electors of the State of Montana in the military service of the United States and services allied therewith, to vote in county, state and national general elections during their temporary or indefinite absence by reason of such service, and to modify such provisions of the general election laws of Montana which might otherwise prevent their participation in said general elections.

Liberal construction required.

Section 2. **Liberally Construed.** This act shall be liberally construed so as to carry out the intent and purpose of the same during the whole period of time electors in military service as herein defined may be required to serve either before or after cessation of actual hostilities with any of the belligerents with whom the United States is at war, and so as to make it possible for persons becoming of voting age while absent in military service to exercise the right of voting, without delay.

Administration of act.

Section 3. **Administration.** The state and county selective service boards, all military organizations, the adjutant general of the State of Montana, officers and citizens of this state, and of the respective counties and municipalities of the state, are hereby charged with the duty of cooperating with all election, and state and county officers in carrying out the intent and purpose of this act.

Section 4. **Elector in Military Service.** When used in this act, the words:

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"Elector in military service" defined.

(1) "Elector in military service" shall mean any person qualified to vote under the constitution and laws of the State of Montana (without reference to registration laws except as herein provided), who is absent from his place of residence on election day and serving in the armed forces of the United States, land, air, or naval, or any combination thereof, or in the merchant marine of the United States, or serving in the American red cross, the society of friends, or the united service organizations, or like organizations officially recognized by the secretary of war or the secretary of navy, and attached to and serving with the armed forces of the United States anywhere in the world.

"Ballot."

(2) As used in this act, the term "ballot" shall mean and include the same ballot, or ballots, which will be submitted to and used by the electors of the State of Montana at any general election held, while this act remains in force, including separate ballots used for election of candidates for judicial offices, and in submitting constitutional amendments, or in whatever instances separate ballots are required by law for such elections.

Act not applicable to city elections.

(3) That notwithstanding any other provisions of law, the ballot or ballots in this act provided for shall not contain the names of any candidates for any city office or for any proposition to be voted for in any city of this state, and while this act is in force such cities shall conduct city elections in the manner now required by law.

Elector expecting to be absent on election day.

Section 5. **Absent on Election Day.** Any elector in the military service, who, in the performance of his duties, expects to be absent on election day from the place in which he resides or is entitled to be registered (whether or not actually registered) and/or vote, whether such person at the time of voting is within or without the forty-eight states of the United States and the District of Columbia, shall be entitled to receive ballots and to vote in accordance with the provisions of this act. All other persons may vote by absent voter ballot only as provided by law.

Registration.

Section 6. **Registrations.** Any elector in the military service shall be registered for voting at the general election as hereinafter set forth, and no different, other, or further registration shall be required for such elector.

The county clerk shall cause to be printed on the back of the ballot envelope, hereinafter provided for, a registration and voting affidavit in the following form:

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Form of affidavit to be printed on the back of ballot envelope.

I do solemnly swear (or affirm) that I am a citizen of the United States; that I am or will be twenty-one (21) years of age on or before the general election to be held on the.....day of November, 19.....; that I will be a bona fide resident and qualified elector of the State of Montana and of the county of....., Montana, of congressional district No....., and polling precinct No. ....., in said county on said day of election; that I can read the constitution of said state and that I have not voted at said election, except by the ballots enclosed herein. So help me God.

.....
(Signature of voter and identification No.)

Subscribed and sworn to before me this.....day of ....., 19.....

.....
(Signature of officer, rank and identification number, or official title of other person authorized to administer oaths.)

Before whom affidavit may be sworn to.

This affidavit shall be sworn to before a commissioned officer, warrant officer, or non-commissioned officer no lower in rank than a sergeant, or petty officer, of the military service of the United States, any of whom are hereby authorized to administer such oaths, or by any person actually qualified by law, domestic or foreign, to administer oaths. The affidavit need not state the place where it was made and no seal shall be necessary when sworn to before an officer, warrant officer, non-commissioned officer as above, or petty officer, of the military forces of the United States.

Request for ballot.

Section 7. **Request for Ballot.** (a) A written request for a ballot may be made by any elector in the military service, or such request may be made on behalf of such elector by any qualified and registered elector of the county wherein the elector in military service is entitled to vote. Such requests must be signed by the elector in military service and must contain the name and identification number of the elector in military service, home address, election district and precinct numbers, as near as possible, and the address where the ballot is to be sent; and where the request for ballot is made on behalf of the elector in the military service, the request must be signed by the person making the request, stating his address, and he shall state in such re-

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quest that he is acquainted with the elector for whom the ballot is requested and that he knows of his own knowledge, or has reasonable ground to believe, and does believe, that such elector in the military service will be absent from the State of Montana at the next general election and is, or will be qualified to vote at such election.

Ballots to be mailed—duties of county clerk.

(b) Upon receipt of such requests, and as soon as the ballots are available, it shall be the duty of the county clerk to whom the request is made to mail such elector in the military service, at the address set forth in the request, a ballot or ballots, as the case may be, for use of such elector in casting his vote at said election. At the time of mailing such ballot or ballots the county clerk shall record in a permanent record provided for that purpose, the name and home address of the elector to whom it is sent, the address to which mailed and the name of the person making the request and the date the same is mailed. If more than one application is made on behalf of the elector in military service and the addresses given vary, the clerk shall use the address shown on any request made by a relative, or if no application is made by a relative he shall use the address indicated on the address shown in the last request received unless he has reason to believe it erroneous, in which case he shall use the address he finds, upon reasonable inquiry, to be correct.

All requests for ballots shall be stamped with date on which received by the county clerk, and the same shall be safely kept in a permanent file.

Procedure with respect to requests for ballots.

All requests for ballots to be voted under this act made and signed by electors in military service during any year in which a general election is held, under or by virtue of any statute of the United States or this state shall be sent in accordance with such request and such requests shall be given preference to those made on behalf of an elector in military service, provided, however, if prior to the time such personal request shall have been received a ballot has been sent to such elector in military service another ballot shall not be mailed, except as hereinafter permitted.

All requests for ballots for the same elector in military service shall be securely fastened together and preserved as hereinafter provided.

(c) Request for ballot by an elector in the military service may be made at any time in any calendar year in which

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a general election is held and at any time before the day on which such election is held. Such request may be in substantially the following form:

Form of request.

I, ..., whose military identification No. is....., hereby state that I am, or will be, a qualified elector of the county of..... of the State of Montana, on the.....day of November, 19.....; that I will be entitled to vote in a precinct in said county, at the general election to be held on said day but I am in the military service of the United States and expect to be absent from said county on said day; that my home and place of residence in said county is.....; that I therefore hereby make application for an official ballot to be voted by me at such election.

Dated this.....day of....., 19.....

.....

(Name of elector.)

Send ballot to me at this address:

..... Identification No....., ...

(d) Requests for ballot made *on behalf of an elector in the military service* may be made at any time after the primary election next preceding the general election for which the request is made, and shall be in the following form:

Requests on behalf of elector in service.

I, the undersigned, a duly qualified elector of the county of....., in the State of Montana, do hereby certify that I am acquainted with....., whose military identification number is.....; that my acquaintance is based on..... .....; that I know of my own knowledge or have reason to believe and do believe (strike out words not applicable) that he is or will be a duly qualified elector of ..... precinct in said county on the date of the general election to be held therein next following the date of this request and that the said elector is in the military service of the United States and because of such service will be absent from said county on said election day; that said elector desires to vote at said election; that the home address and place of residence of said elector is..... ....., in said county; that to the best of my knowledge and information a ballot mailed to him and

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addressed as follows:.....,
....., will reach him in time to be returned on or before the close of the polls on election day. I, because of the above, hereby request that a ballot be sent said elector.

Dated this.....day of....., 19.....

.....
(Name)

.....
(Address)

STATE OF MONTANA }
} ss.
County of .....}

I, the undersigned who signed the foregoing request, being first duly sworn, do say that the statements contained in such request are true.

.....
(Signature of affiant)

Subscribed and sworn to before me this.....day of ....., 19.....

.....
(Signature of person administering oath, and his title.)

The above oath may be made before any person authorized by law to administer oaths, including county clerks.

Ballots to be mailed to electors in service, residents of county, irrespective of requests.

(e) That notwithstanding the above provisions of this section, and by way of providing more complete opportunity to vote at any said general election and irrespective of such requests for ballot, it is hereby made the duty of each county clerk to mail ballots to all electors in the military service whose places of residence are in the respective counties, including all those who have been inducted under the selective service act, as shown by the available selective service records of the county, and also to those who have voluntarily enlisted from such county as shown by the records thereof in or available to the adjutant general's office of the State of Montana. Ballots shall be mailed by such clerk, beginning as soon as ballots have been printed and in any event not later than the 20th day of August in the year in which the election is to be held, and continuing as rapidly as possible, to all electors in military service from his county. It is hereby made the duty of each county clerk to make diligent search and inquiry to learn the mailing

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address and identification number, if he has one, of each elector in military service and to mail ballots to all such electors, at such address as can be reasonably ascertained to be correct.

Duty of selective service board of county.

The selective service board of each county is hereby directed and requested to provide or make available to the county clerk therein the name, date of birth and home address of the elector in military service, and name and address of nearest relative, guardian or person designated by such elector in the military service as knowing his address, as shown by the selective service records of the county in which such elector resides.

Duty of adjutant general of Montana.

The adjutant general of Montana shall immediately upon the passage of this act obtain from all available sources the names, dates of birth, addresses, and names of nearest relatives, guardians or persons designated by the elector as knowing his address, of all persons resident in the state who have made voluntary enlistments in the military forces of the United States, including the national guard, and promptly send to each county clerk the names, together with the other information mentioned above, of those members in the military service resident in the county to which the names are sent.

Officers, state and county to expedite performance of duties under this act.

Section 8. **Certification of Candidates and Measures for Ballots. Mailing Ballots.** All officers, state and county, charged with the duty of certifying nominations and measures for appearance on the ballot or ballots and charged with the duties of preparing and printing ballots shall expedite the commencement and the complete performance of such duties to the end of making ballots available to electors in military service as promptly as possible under the terms of this act. As soon as the ballots have been printed, the county clerk shall proceed with mailing the ballots by speedy mail, including air mail, postage prepaid (when required by United States law), and postal registration thereof shall not be necessary. In no event shall more than one ballot, or one set of ballots, where separate ballots are required, be sent to the same elector in the military service, *except that* (a) where a request for ballot shall have been made on behalf of such elector and the ballot has been mailed pursuant to such request, or (b) by the county clerk without a request and thereafter a personal request shall be made by the elector in military service

More than one ballot may be sent, when.

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and it appears to the county clerk the ballot mailed was erroneously addressed and therefore might not reach the addressee, the county clerk may send a second ballot pursuant to the personal request, and a record thereof made as above required and each record thereof shall refer to the other and show that a second ballot was mailed. No ballot need be mailed if it is obvious to the county clerk that it cannot be returned by election day.

Section 9. **Instructions to Voters.** The county clerk shall enclose the ballot in an unsealed envelope to be furnished by him, which shall be known as the "ballot envelope" (to be mailed by the elector), which ballot envelope and the envelope containing the same, which shall be known as the "carrier envelope" (mailed with contents to the elector), shall have printed on one side and appropriate to the use of each ballot, the name, official title and return address of such county clerk, and also the following in conspicuous bold-face type: "Official Montana election war ballot envelope". Only the ballot or ballots, the ballot envelope and instructions to voters, shall be enclosed in the sealed carrier envelope addressed to the absent elector. Both ballots and envelopes may be made of light-weight paper, and the outer dimensions of the carrier and ballot envelopes shall conform as nearly as possible to specifications which may be adopted by the United States war ballot commission. The instructions mentioned above shall be printed on the back of the carrier envelope and shall be as follows:

Kinds of envelopes.

INSTRUCTIONS TO VOTER

Upon the receipt of enclosed ballots, sign and swear to (or affirm) the affidavit on back of ballot envelope before a commissioned officer, warrant officer, non-commissioned officer not below the rank of sergeant, or petty officer, or other person authorized to administer and attest oaths. After taking oath, mark ballots in secret, seal in the ballot envelope and deposit in mail. TO INSURE PROMPT RETURN OF BALLOTS, ATTEND TO THIS AS SOON AFTER RECEIVING AS YOUR DUTIES WILL PERMIT. DESTROY ENCLOSED BALLOTS IF YOU HAVE PREVIOUSLY VOTED. NO POSTAGE OR POSTAL REGISTRATION IS REQUIRED.

Instructions to voters to be printed on back of carrier envelope.

Nothing herein contained shall be deemed to repeal the provisions of law prescribing the instructions which must be placed on the ballots.

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County clerk to supply certain data before mailing ballot.

Before mailing the ballot, the county clerk shall insert in the affidavit on back of ballot envelope the numbers of the congressional election district and county precinct of the elector to whom the ballot is sent, such numbers to be determined by such information as may be available to the county clerk.

Manner of voting.

Section 10. **Manner of Voting.** The elector in military service shall, upon receipt of the ballot envelope and ballot, execute before an officer designated in section 6 of this act, the affidavit on the back of the envelope, after which he shall mark the ballot in secret, seal it in the ballot envelope and send it by an available mail service to the county clerk who issued it.

Section 11. **Delivery to Election Judges.** Upon receipt by the county clerk of such envelope containing the ballot he shall record the receipt of same in the permanent record where he had theretofore recorded the mailing of the ballot to the voter. The county clerk shall determine the precinct in which the elector in the military service resides, as indicated by the voter's address in the affidavit on the outside of the ballot envelope, if possible, and shall indorse on said ballot envelope over his signature the date of receipt. The county clerk or his deputies shall personally deliver said envelope, if it conforms with his records related thereto and has not been opened, or tampered with, without the application upon which such ballot was issued if an application was made, to the judges of election in the proper precinct in the county, in the same manner as provided by law for the delivery of absent voter ballots, and during election day, at any time up to the close of the polls. The county clerk shall, insofar as it is possible, deliver every such ballot received by him up to and including the day of election, as hereinabove provided to the election judges in the precinct. No delivery of ballots shall be made after the polls close on election day, and no ballot shall be counted or canvassed unless actually cast in the ballot box on election day while the polls were open.

Delivery of envelope containing ballot to election judges.

Only latest of more than one ballot by same elector to be delivered to election officials.

In the event more than one ballot or set of ballots is received from the same elector in the military service, the county clerk shall deliver to the election officials of the precinct in which such elector is entitled to vote only the ballot envelope which bears the latest dated affidavit signed by the elector.

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Section 12. **Automatic Registration. Counting of Ballots.** Between the opening and closing of the polls on election day, the judges of the election precinct shall examine the ballot envelope and the affidavit on the back of each ballot envelope and if the same appears to be executed in proper form and contains information qualifying the elector in the military service to be registered as a voter, then the election judges shall cause and order the name of such elector in the military service to be entered upon the poll book by the clerk or clerks of election, with the notation, "registered under military service ballot act of 1945 by order of election judges of precinct No.....", followed by the signature of the clerk or clerks of election, in the precinct. When such name is entered upon the poll book, the voter shall be deemed to be registered for all purposes of voting under this act.

Automatic registration.

Upon the entry of the voter's name upon the poll book as herein provided, the election judges shall proceed to open the ballot envelope, take therefrom the ballot enclosed therein and deposit the said absent voter ballot in the ballot box in the same manner as other absent voter ballots are deposited, as provided by law. It shall not be necessary to compare the signature upon the application with the signature upon the ballot envelope in cases where application for ballots are made under this act by the elector over his own signature.

Deposit of ballot in ballot box.

The ballot envelope shall be returned by the judges and clerks of election in the precinct to, and retained by, the county clerk of the county in which the election was held, and said ballot envelopes shall be carefully preserved in the same manner as other elector's oaths and registration cards and lists. Nothing contained in the general election laws of the State of Montana as to the time within which the registration officers or agents shall complete and file the list of registered voters, or otherwise, shall in any way abridge the right of an elector in the military service to be registered and to vote as herein provided.

Ballot envelopes to be preserved.

Section 13. **Challenge.** No such absent voter's ballot, provided for in this act, shall be challenged because the military identification number of the elector, or of the officer, commissioned or otherwise, by whom the oath was administered, is not shown in the affidavit on the back of the ballot envelope, or because the election district and/or

Challenge of ballot.

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precinct is not shown in the registration affidavit. The ballot may be otherwise challenged in the same manner and on the same grounds as provided in the general election laws, or if not otherwise in compliance with the provisions of this act.

Nominations to be certified to county clerks.

Section 14. **Nominations Certified to County Clerks.** Notwithstanding any of the provisions of *existing law*, it shall be the duty of the secretary of state of the State of Montana immediately after the completion of the canvass by the state board of canvassers of the votes at any primary election and the recording of the abstract thereof in his office, to certify to the county clerk of each county the names of all candidates nominated by each party for presidential electors, senators and representatives in the congress of the United States, state officers, and those nominated for justices of the supreme court and judges of the district court by non-partisan ballots or otherwise. At the time of certifying the names of persons nominated for the aforesaid offices, and notwithstanding the provisions of existing law, the secretary of state shall send to the county clerks certified copies of any and all constitutional amendments which are to be submitted to the electors at the next ensuing general election. The board of county commissioners of any county immediately after the completion of the canvass by it of the votes at any primary election, and the recording of the abstract in the office of the clerk of the board, shall forthwith certify to the county clerk of each county the names of all candidates likewise nominated by each party for all county offices.

Date for filing certificates of nomination.

Notwithstanding any of the provisions of existing law, certificates for nomination of candidates for office who are not nominated by convention or by primary election must file their certificates of nomination in the proper office not later than the 10th day of August in the year in which a general election, at which they are candidates, is held, and in all cases where a citizen is nominated for public office at a primary election by having his name written in on a primary election ballot his acceptance of nomination shall be filed in the proper office, state or county, on or before the 10th day of August in the year in which a general election, at which he is a candidate, is held. No candidate's name shall be placed on the general election ballots whose certificate or acceptance of nomination has not been filed on or

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before the 10th day of August in the year the general election is held.

Printing ballots.

Section 15. **Printing Ballots.** Immediately upon receipt of the certificates from the secretary of state of the State of Montana and the proper board of county commissioners, referred to in the next preceding section, the county clerk shall prepare and have printed ballots for use at the general election next ensuing after the primary election at which candidates for public offices were nominated; he shall cause such ballots to be printed with all possible dispatch and when received by him shall promptly mail the same to the electors in military service, as in this act provided.

General election laws apply unless in conflict with this act.

Section 16. **General Election Laws Effective.** The provisions of the general election laws of the State of Montana insofar as they are not in conflict with the provisions of this act, shall apply as well to voting by electors in the military service as to voting by other absentees. But any elector in military service who by reason of leave, furlough, delay en route or other lawful absence from his command, post, station or area, is present in the county of his residence where he would be entitled to vote at any general election, except for his absence in military service, and who desires to vote under this act may file application therefor and vote in the office of the county clerk of said county at any time after the ballots are printed and before the day of election in the same manner as if he were absent from the county, and his ballot shall be by him sealed, oaths taken and vote deposited, counted and canvassed as herein provided.

Expenses—election supplies.

Section 17. **Expense—Election Supplies.** All state and county officials charged with the duty of providing ballot requests, ballots, forms, envelopes, postage, or other supplies, are hereby authorized and required to provide the same at the expense of the particular office charged with such duties under existing law and as in this act provided, and as expeditiously as possible in order to carry out the intent and purpose of this act.

Expiration date of act.

Section 18. **Expiration Date.** This act shall be and remain in force and effect until the last day of the thirtieth regular session of the legislative assembly of the State of Montana. All provisions of law which are inconsistent herewith shall be temporarily suspended for the duration of this act. Upon the expiration of this act, however, all such pro-

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visions shall again become of full force and effect as if this act had never been passed.

Repealing clause.

Section 19. Chapter 101, laws of the twenty-eighth legislative assembly of the State of Montana, approved February 26, 1943, and all thereof is hereby repealed.

Effective date.

Section 20. This act shall be in full force and effect from and after its passage and approval.

Approved February 28, 1945.

CHAPTER 144

An Act to Amend Section 1 of Chapter 171 of the Session Laws of the State of Montana, 1941, Relating to the Sale of Unredeemed Tax Title Property by County Commissioners, and Right of Purchase by Taxpayer or Successor in Interest and Preferential Rights of Taxpayer or Successor in Interest, of Property Heretofore Deeded to County.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 1, Ch. 171, laws 1941, amended.

Section 1. That Section 1, Chapter 171 of the Session Laws of Montana, 1941, be, and the same is hereby amended to read as follows:

Sale of land acquired by county by tax deed, procedure for.

"Section 1. Whenever the county *shall hereafter acquire* any land by tax deed, it shall be the duty of the board of county commissioners within six (6) months after acquiring title, to make and enter an order for sale of such lands at public auction at the front door of the courthouse, provided, however, that thirty (30) days' notice of such sale shall be given by publication in a newspaper printed in the county. Such notice shall be published once a week for three (3) consecutive weeks, and shall be posted in at least three (3) public places in the county. Notice posted and published shall be signed by the county clerk and one (1) notice may include a list of all lands to be sold, the appraised value of same, and the time and place of sale, and no sale shall be made for a price less than the fair market value thereof, as determined and fixed by the board of county commissioners prior to making the order of sale, which value shall be stated in the notice of sale. Provided further, that at any time before the time fixed for *the first*

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offering of said property for sale, notice of which has been given as above provided, the taxpayer or successor in interest, *or legal representative,* whose property *shall hereafter be* deeded to the county, may purchase such property subject to the reservations hereinafter provided, by payment to the county of the full amount of the taxes, penalties and interest due on said land at the time of taking said tax deed, and such purchase and payment may be effected by an installment contract with annual payments as hereinafter provided.

Preferential right to purchase limited to six months.

"Sub-section (a). That all persons whose property has heretofore been deeded to the county, or the successors in interest of such persons, or legal representatives, who have acquired any preferential right to purchase such property, prior to the date fixed for sale of such property, or while the title to the same remains in the name of the county, under the provisions of Section 2235, Revised Codes of Montana, 1935, as amended by Chapter 181, Session Laws of Montana, 1939, are hereby given six (6) months after the effective date of this act in which to exercise such preferential right to so re-purchase said property in accordance with the provisions of said laws above herein referred to, and if such rights are not so exercised within said period of six (6) months, said preferential rights shall terminate and thereafter forever be barred."

Notice to be published by county clerk and recorder.

"Sub-section (b). The county clerk and recorder of each and every county of the State of Montana, if such clerk and recorder's county has heretofore taken county deeds to property in which such preferential rights exist (or may exist), shall cause to be published and circulated at least once a week in such county, a full, true and correct copy of sub-section (a) of this act, said notice to also include the effective date of this act. Such clerk and recorder shall cause said notice to be published once a week for three (3) consecutive weeks, in such paper, and post three (3) copies of such notice in at least three (3) public places in the county; the first publication to be within thirty (30) days after the effective date of this act."

Repealing clause.

Section 2. That all acts or parts of acts in conflict herewith are hereby repealed.

Section 3. This act shall be deemed and declared an

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Effective date. emergency act, and effective from and after its passage and approval.

Approved February 28, 1945.

CHAPTER 145

An Act to Amend Chapter 308 of the Revised Codes of Montana, 1935, Relating to the Protection of Fish and Game, by Adding a New Section to Be Known As Section 3729.3(A) Authorizing the Fish and Game Commission to Remove and Dispose of Moose Increasing in Numbers and Damaging Property.

Be it enacted by the Legislative Assembly of the State of Montana:

Chap. 308, R. C. 1935, amended. Section 1. That Chapter 308 of the Revised Codes of Montana, 1935, be, and the same is hereby amended by adding a new section after section 3729.3 to be known as section 3729.3(A).

Commission authorized to dispose of moose under certain conditions. "Section 3729.3(A). **Power of the Commission to Dispose of Moose Increasing in Numbers and Damaging Property.** Whenever moose in the State of Montana have increased in number to such extent that, in the judgment of the state fish and game commission, their number should be reduced, or public or private property is being actually and materially damaged or destroyed by said moose, the said commission shall have the power and authority, whenever, in its opinion, conditions warrant it, to permit the taking, killing, removing or disposing of such animals under such rules, regulations and conditions as it may prescribe and promulgate; provided that the state fish and game commission may determine the number of each sex of moose to be killed or removed and may open the season on such moose and may issue special licenses in a limited number depending on the number of moose to be killed. In determining to whom these licenses shall be issued, the commission shall, when more applications are made than there are animals to be killed, award permits to those chosen under a drawing system. There shall be collected from the persons issued a permit a fee of twenty-five dollars ($25.00). Special licenses as herein authorized may be issued only to those persons holding big game licenses and be limited to only one moose, the sex of which shall be designated on such special license or permit."

Special licenses.

Permit fee.

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Section 2. This act shall be deemed and declared an emergency act, and effective from and after its passage and approval. Effective date.

Approved February 28, 1945.

CHAPTER 146

An Act to Amend Section 3729.1 of the Revised Codes of Montana, 1935, Relating to the Power of the State Fish and Game Commission to Dispose of Elk Increased in Numbers and Damaging Property.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 3729.1 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows: Sec. 3729.1, R. C. 1935, amended.

"Section 3729.1. **Power of Commission to Dispose of Elk Increased in Numbers and Damaging Property.** *Whenever elk within the State of Montana* have increased in numbers to such an extent that in the judgment of the state fish and game commission their numbers should be reduced, *or* special or private property is being actually or materially damaged or destroyed by said elk, and a written complaint of such damage has been filed by the owners or lessees of said property with the state fish and game commission, the said commission shall have the power and authority, whenever in its opinion conditions warrant it, *to permit the taking, killing, removal or disposal* of such elk under the rules and regulations and conditions as *hereinafter provided; providing that the state fish and game commission may open the season on such elk and may issue emergency special licenses in a limited number, depending upon the number of elk to be killed or removed, to alleviate the damage.* Commission authorized to dispose of elk under certain conditions. Emergency special licenses.

After determining the number of each sex of elk to be removed from an area where they are causing damage to private property, the commission shall cause to be placed upon sale a number of emergency special licenses. These licenses shall be sold by license dealers in the county where damage is occurring, and shall be issued only for the area designated in the license. Special emergency licenses shall be issued to the first applicants. All applicants for a special emergency

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Conditions and regulations relating to special emergency licenses.

license must first be in possession of a resident big game license for the current year and must in addition pay one dollar ($1.00), for a special emergency license. No person shall receive more than one special emergency license as herein authorized in any one license year and such licenses are limited to one elk only, the sex of which shall be designated on said license or permit. Special emergency licenses shall be valid only for the period specified on the license. To every limited license there shall be attached a tag, coupon or marker, the form of which shall be prescribed by the state fish and game commission, and when any person shall take or kill any elk under such license, he shall immediately detach from his license and attach in plain sight to the carcass of said elk the proper tag, coupon or marker, which said tag, coupon or marker shall be kept attached thereto so long as any considerable part of the carcass shall remain unconsumed."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 28, 1945.

CHAPTER 147

An Act to Make Uniform the Law With Reference to Trust Receipts and Pledges of Personal Property Unaccompanied by Possession in the Pledgee, Providing for Liens Under Trust Receipts Transactions and the Duration of Such Liens, for Filing of Statements of Trust Receipts Transactions in the Office of the Secretary of State, and Also in the Office of the County Clerk and Recorder in the County Wherein the Goods and/or Instruments Are Located, and in the Office of the Registrar of Motor Vehicles, As Designated Herein, and Defining Rights and Liabilities of Parties to Such Transactions and of Others.

Be it enacted by the Legislative Assembly of the State of Montana:

Definitions.

Section 1. Subdivision 1. **Definitions.** In this act, unless the context or subject matter otherwise requires, the following words or phrases shall have the meaning hereinafter set forth.

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Subdivision 2. **Buyer.** "Buyer in the ordinary course of trade" means a person to whom goods are sold and delivered for new value and who acts in good faith and without actual knowledge of any limitation on the trustee's liberty of sale, including one who takes by conditional sale or under a pre-existing mercantile contract with the trustee to buy the goods delivered, or like goods, for cash or on credit. "Buyer in the ordinary course of trade" does not include a pledgee, a mortgagee, a lienor, or a transferee in bulk. "Buyer."

Subdivision 3. **Documents.** "Document" means any document of title to goods. "Document."

Subdivision 4. **Entruster.** "Entruster" means the person who has, or directly or by agent takes, a security interest in goods, documents or instruments under a trust receipt transaction, and any successor in interest of such person. A person in the business of selling goods or instruments for profit, who at the outset of the transaction has, as against the buyer, general property in such goods or instruments, and who sells the same to the buyer on credit, retaining title or other security interest under a purchase money mortgage or conditional sales contract or otherwise, is excluded. "Entruster."

Subdivision 5. **Goods.** "Goods" means any chattels personal other than money, things in action, or things so affixed to land as to become a part thereof. "Goods."

Subdivision 6. **Instrument.** "Instrument" means "Instrument."

(a) any negotiable instrument as defined in the uniform negotiable instruments law and amendments thereto, or

(b) any certificate of stock, or bond or debenture for the payment of money issued by a public or private corporation as a part of a series, or

(c) any interim, deposit, or participation certificate or receipt, or other credit or investment instrument of a sort marketed in the ordinary course of business or finance, of which the trustee, after the trust receipt transaction, appears by virtue of possession and the face of the instrument to be the owner. "Instrument" does not include any document of title to goods.

Subdivision 7. **Lien Creditor.** "Lien creditor" means any creditor who has acquired a specific lien on the goods, "Lien creditor."

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documents or instruments by attachment, levy, or by any other similar operation of law or judicial process, including a distraining landlord.

"New value." Subdivision 8. **New Value.** "New value" includes new advances or loans made, or new obligations incurred, or the release or surrender of a valid and existing security interest, or the release of a claim to proceeds under section 10; but "new value" shall not be construed to include extensions or renewals of existing obligations of the trustee, nor obligations substituted for such existing obligations.

"Person." Subdivision 9. **Person.** "Person" means, as the case may be, an individual, trustee, receiver or other fiduciary, partnership, corporation, business trust, or other association, and two or more persons having a joint or common interest.

"Possession." Subdivision 10. **Possession.** "Possession" as used in this act with reference to possession taken or retained by the entruster, means actual possession of goods, documents or instruments, or, in the case of goods, such constructive possession as, by means of tags or signs or other outward marks placed and remaining in conspicuous places, may reasonably be expected in fact to indicate to the third party in question that the entruster has control over or interest in the goods.

"Purchase." Subdivision 11. **Purchase.** "Purchase" means taking by sale, conditional sale, lease, mortgage, or pledge, legal or equitable.

"Purchaser." Subdivision 12. **Purchaser.** "Purchaser" means any person taking by purchase. A pledgee, mortgagee or other claimant of a security interest created by contract is, in so far as concerns his specific security, a purchaser and not a creditor.

"Security interest." Subdivision 13. **Security Interest.** "Security interest" means a property interest in goods, documents or instruments, limited in extent to securing performance of some obligation of the trustee or of some third person to the entruster, and includes the interest of a pledgee, and title, whether or not expressed to be absolute, whenever such title is in substance taken or retained for security only.

"Transferee in bulk." Subdivision 14. **Transferee in Bulk.** "Transferee in bulk" means a mortgagee or a pledgee or a buyer of the trustee's business substantially as a whole.

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Subdivision 15. **Trustee.** "Trustee" means the person having or taking possession of goods, documents or instruments under a trust receipt transaction, and any successor in interest of such person. The use of the word "trustee" herein shall not be interpreted or construed to imply the existence of a trust or any right or duty of a trustee in the sense of equity jurisprudence other than as provided by this act. "Trustee."

Subdivision 16. **Value.** "Value" means any consideration sufficient to support a simple contract. An antecedent or pre-existing claim, whether for money or not, and whether against the transferor or against another person, constitutes value where goods, documents or instruments are taken either in satisfaction thereof or as security therefor. "Value."

Section 2. Subdivision 1. **What Are Trust Receipt Transactions.** A trust receipt transaction within the meaning of this act is any transaction to which an entruster and a trustee are parties, for one of the purposes set forth in subdivision 3, whereby What are receipt transactions.

(a) the entruster or any third person delivers to the trustee goods, documents or instruments in which the entruster (i) prior to the transaction has, or for new value (ii) by the transaction acquires or (iii) as a result thereof is to acquire promptly, a security interest; or Whereby trustee acquires a security interest.

(b) the entruster gives new value in reliance upon the transfer by the trustee to such entruster of a security interest in instruments or documents which are actually exhibited to such entruster, or to his agent in that behalf, at a place of business of either entruster or agent, but possession of which is retained by the trustee; provided that the delivery under paragraph (a) or the giving of new value under paragraph (b) either Whereby entruster gives new value.

(i) be against the signing and delivery by the trustee of a writing designating the goods, documents or instruments concerned, and reciting that a security interest therein remains in or will remain in, or has passed to or will pass to, the entruster, or Proviso—relating to delivery.

(ii) be pursuant to a prior or concurrent written and signed agreement of the trustee to give such a writing.

The security interest of the entruster may be derived from the trustee or from any other person, and by pledge or by transfer of title or otherwise.

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In case trustee's rights are subject to prior trust receipt.

If the trustee's rights in the goods, documents or instruments are subject to a prior trust receipt transaction, or to a prior equitable pledge, section 9 and section 3, respectively, of this act, determine the priorities.

Trust receipt.

Subdivision 2. A writing such as is described in subdivision 1, paragraph (i), signed by the trustee, and given in or pursuant to such a transaction, is designated in this act as a "trust receipt". No further formality of execution or authentication shall be necessary to the validity of a trust receipt.

Trust receipt transaction, conditions relating to.

Subdivision 3. A transaction shall not be deemed a trust receipt transaction unless the possession of the trustee thereunder is for a purpose substantially equivalent to any one of the following:

For the purpose of sale or exchange.

(a) in the case of goods, documents or instruments, for the purpose of selling or exchanging them or of procuring their sale or exchange; or

Manufacturing or processing for sale.

(b) in the case of goods or documents, for the purpose of manufacturing or processing the goods delivered or covered by the documents, with the purpose of ultimate sale, or for the purpose of loading, unloading, storing, shipping, trans-shipping or otherwise dealing with them in a manner preliminary to or necessary to their sale; or

In the case of instruments.

(c) in the case of instruments, for the purpose of delivering them to a principal, under whom the trustee is holding them, or for consummation of some transaction involving delivery to a depositary or registrar, or for their presentation, collection, or renewal.

Extent to which attempted pledge or agreement is valid against creditors.

Section 3. **When Pledge or Agreement Is Valid Against Creditors.** Subdivision 1. An attempted pledge or agreement to pledge not accompanied by delivery of possession, which does not fulfill the requirements of a trust receipt transaction, shall be valid as against creditors of the pledgor only as follows:

(a) to the extent that new value is given by the pledgee in reliance thereon, such pledge or agreement to pledge shall be valid as against all creditors with or without notice, for ten (10) days from the time the new value is given;

(b) to the extent that the value given by the pledgee is not new value, and in the case of new value after the lapse of ten days from the giving thereof, the pledge shall have validity as against lien creditors without notice, who become

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such as prescribed in section 8, only as of the time the pledgee takes possession, and without relation back.

Purchasers for value and without notice.

Subdivision 2. Purchasers (including entrusters) for value and without notice of the pledgee's interest shall take free of any such pledge or agreement to pledge unless, prior to the purchase, it has been perfected by possession taken.

Subdivision 3. Where, under circumstances not constituting a trust receipt transaction, a person, for a temporary and limited purpose, delivers goods, documents, or instruments, in which he holds a pledgee's or other security interest, to the person holding the beneficial interest therein, the transaction has like effect with a purported pledge for new value under this section.

Contracts for trust receipts.

Section 4. **Contracts for Trust Receipts.** Subdivision 1. A contract to give a trust receipt, if in writing and signed by the trustee, shall, with reference to goods, documents or instruments thereafter delivered by the entruster to the trustee in reliance on such contract, be equivalent in all respects to a trust receipt.

Enforceability and effect of such contracts.

Subdivision 2. Such a contract shall as to such goods, documents, or instruments be specifically enforceable against the trustee; but this subdivision shall not enlarge the scope of the entruster's rights against creditors of the trustee as limited by this act.

Validity between the parties.

Section 5. **Validity Between the Parties.** Between the entruster and the trustee the terms of the trust receipt shall, save as otherwise provided by this act, be valid and enforceable. But no provision for forfeiture of the trustee's interest shall be valid except as provided in subdivision 5 of section 6.

Right to possession on default.

Section 6. **Repossession, and Entruster's Rights on Default.** Subdivision 1. The entruster shall be entitled as against the trustee to possession of the goods, documents or instruments on default, and as may be otherwise specified in the trust receipt.

Repossession without legal process.

Subdivision 2. An entruster entitled to possession under the terms of the trust receipt or of subdivision 1 may take such possession without legal process, whenever that is possible without breach of the peace.

Repossession as pledgee.

Subdivision 3. (a) After possession taken, the entruster shall, subject to subdivision 3 (b) and subdivision 5

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of this section, hold such goods, documents or instruments with the rights and duties of a pledgee.

Entruster's right to sell, and procedure relating to sale.

(b) An entruster in possession may, on or after default, give notice to the trustee of intention to sell, and may, not less than five days after the serving or sending of such notice, sell the goods, documents or instruments for the trustee's account, at public or private sale, and may at a public sale himself become a purchaser. The proceeds of any such sale, whether public or private, shall be applied (i) to the payment of the expenses thereof, (ii) to the payment of the expenses of retaking, keeping and storing the goods, documents, or instruments, (iii) to the satisfaction of the trustee's indebtedness. The trustee shall receive any surplus and shall be liable to the entruster for any deficiency. Notice of sale shall be deemed sufficiently given if in writing, and either (i) personally served on the trustee, or (ii) sent by post-paid ordinary mail to the trustee's last known business address.

Purchaser in good faith and for value from an entruster.

(c) A purchaser in good faith and for value from an entruster in possession takes free of the trustee's interest, even in a case in which the entruster is liable to the trustee for conversion.

Surrender of trustee's interest to entruster.

Subdivision 4. Surrender of the trustee's interest to the entruster shall be valid, on any terms upon which the trustee and the entruster may, after default, agree.

As to articles manufactured, —provisions for forfeiture of trustee's interest.

Subdivision 5. As to articles manufactured by style or model, the terms of the trust receipt may provide for forfeiture of the trustee's interest, at the election of the entruster, in the event of the trustee's default, against cancellation of the trustee's then remaining indebtedness; provided that in the case of the original maturity of such an indebtedness there must be cancelled not less than 80 per cent of the purchase price to the trustee, or of the original indebtedness, whichever is greater; or, in the case of a first renewal, not less than 70 per cent, or, in the case of a second or further renewal, not less than 60 per cent.

General effect of entruster's filing or taking possession.

Section 7. **General Effect of Entruster's Filing or Taking Possession.** Subdivision 1. (a) If the entruster within the period of 30 days specified in subdivision 1 of section 8 files as in this act provided, such filing shall be effective to preserve his security interest in documents or goods against all persons, save as otherwise provided by sections 8, 9, 10, 11, 14 and 15 of this act.

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(b) Filing after the lapse of the said period shall be valid; but in such event, save as provided in subdivision 2 (b) of section 9, the entruster's security interest shall be deemed to be created by the trustee as of the time of such filing, without relation back, as against all persons not having notice of such interest.

Delayed filing —entruster's security interest.

Subdivision 2. The taking of possession by the entruster shall, so long as such possession is retained, have the effect of filing, in the case of goods or documents; and of notice of the entruster's security interest to all persons, in the case of instruments.

Possession equivalent to filing.

Section 8. **Validity Against Creditors.** Subdivision 1. The entruster's security interest in goods, documents or instruments under the written terms of a trust receipt transaction, shall without any filing be valid as against all creditors of the trustee, with or without notice, for thirty (30) days after delivery of the goods, documents or instruments to the trustee, and thereafter except as in this act otherwise provided.

Validity against creditors.

But where the trustee at the time of the trust receipt transaction has and retains instruments or documents, the thirty (30) days shall be reckoned from the time such instruments or documents are actually shown to the entruster, or from the time that the entruster gives new value under the transaction, whichever is prior.

In case trustee has and retains instruments and documents.

Subdivision 2. Save as provided in subdivision 1, the entruster's security interest shall be void as against lien creditors who become such after such thirty (30) day period and without notice of such interest and before filing.

When entruster's security interest is void as to lien creditors.

Subdivision 3. (a) Where a creditor secures the issuance of process which within a reasonable time after such issuance results in attachment of or levy on the goods, he is deemed to have become a lien creditor as of the date of the issuance of the process.

Status of lien creditors dates from issuance of process.

(b) Unless prior to the acquisition of notice by all creditors filing has occurred or possession has been taken by the entruster, (i) an assignee for the benefit of creditors, from the time of assignment, or (ii) a receiver in equity from the time of his appointment, or (iii) a trustee in bankruptcy or judicial insolvency proceedings from the time of filing of the petition in bankruptcy or judicial insolvency by or against the trustee, shall on behalf of all creditors,

Assignee for benefit of creditors and receiver and trustee in bankruptcy, status of as lien creditors.

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stand in the position of a lien creditor without notice, without reference to whether he personally has or has not, in fact, notice of the entruster's interest.

Section 9. **Limitations an Entruster's Protection Against Purchasers.**

Persons whose rights are superior to those entruster.

Subdivision 1. (a) Nothing in this act shall limit the rights of purchasers in good faith and for value from the trustee of negotiable instruments or negotiable documents, and purchasers taking from the trustee for value, in good faith, and by transfer in the customary manner instruments in such form as are by common practice purchased and sold as if negotiable, shall hold such instruments free of the entruster's interest; and filing under this act shall not be deemed to constitute notice of the entruster's interest to purchasers in good faith and for value of such document or instruments, other than transferees in bulk.

Effect of entrusting of goods, documents or instruments under transaction falling within section 3 of this act.

(b) The entrusting (directly, by agent, or through the intervention of a third person) of goods, documents or instruments by an entruster to a trustee, under a trust receipt transaction or a transaction falling within section 3 of this act, shall be equivalent to the like entrusting of any documents or instruments which the trustee may procure in substitution, or which represent the same goods or instruments or the proceeds thereof, and which the trustee negotiates to a purchaser in good faith and for value.

Where buyer from trustee is not protected, rules applicable.

Subdivision 2. Where a buyer from the trustee is not protected under subdivision 1 hereof, the following rules shall govern:

(a) Sales by trustee in the ordinary course of trade.

Where trustee sells to a buyer in ordinary course of business.

(i) Where the trustee, under the trust receipt transaction, has liberty of sale and sells to a buyer in the ordinary course of trade, whether before or after the expiration of the thirty (30) day period specified in subdivision 1 of section 8 of this act, and whether or not filing has taken place, such buyer takes free of the entruster's security interest in the goods so sold, and no filing shall constitute notice of the entruster's security interest to such a buyer.

(ii) No limitation placed by the entruster on the liberty of sale granted to the trustee shall effect a buyer in the ordinary course of trade, unless the limitation is actually known to the latter.

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(b) Purchasers other than buyers in the ordinary course of trade.

In absence of filing—validity of entruster's security interest.

In the absence of filing the entruster's security interest in goods shall be valid, as against purchasers, save as provided in this section; but any purchaser, not a buyer in the ordinary course of trade, who, in good faith and without notice of the entruster's security interest and before filing, either (i) gives new value before the expiration of the 30 day period specified in subdivision 1 of section 8, or (ii) gives value after said period, and who in either event before filing also obtains delivery of goods from a trustee shall hold the subject matter of his purchase free of the entruster's security interest; but a transferee in bulk can take only under (ii) of this subdivision 2 (b).

(c) Liberty of sale.

Granting to trustee liberty of sale—what amounts to.

If the entruster consents to the placing of goods subject to a trust receipt transaction in the trustee's stock in trade or in his sales or exhibition rooms, or allows such goods to be so placed or kept, such consent or allowance shall have like effect as granting the trustee liberty of sale.

Purchase of goods, documents or instruments on credit—right of entruster.

Subdivision 3. As to all cases covered by this section the purchase of goods, documents or instruments on credit shall constitute a purchase for new value, but the entruster shall be entitled to any debt owing to the trustee and any security therefor, by reason of such purchase; except that the entruster's right shall be subject to any set-off or defense valid against the trustee and accruing before the purchaser has actual notice of the entruster's interest.

Entruster's right to proceeds.

Section 10. **Entruster's Right to Proceeds.** Where, under the terms of the trust receipt transaction, the trustee has no liberty of sale or other disposition, or, having liberty of sale or other disposition, is to account to the entruster for the proceeds of any disposition of the goods, documents or instruments, the entruster shall be entitled, to the extent to which and as against all classes of persons as to whom his security interest was valid at the time of disposition by the trustee, as follows:

(a) to the debts described in section 9 (3); and also

Limitations with respect to certain actions by or on behalf of creditors.

(b) to any proceeds or the value of any proceeds (whether such proceeds are identifiable or not) of the goods, documents or instruments, if said proceeds were received by the trustee within ten days prior to either applica-

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tion for appointment of a receiver of the trustee, or the filing of a petition in bankruptcy or judicial insolvency proceedings by or against the trustee, or demand made by the entruster for prompt accounting; and to a priority to the amount of such proceeds or value; and also

Waiver of accounting.

(c) to any other proceeds of the goods, documents or instruments which are identifiable, unless the provision for accounting has been waived by the entruster by words or conduct; and knowledge by the entruster of the existence of proceeds, without demand for accounting made within ten days from such knowledge, shall be deemed such a waiver.

Specific liens.

Section 11. **Specific Liens.** Specific liens arising out of contractual acts of the trustee with reference to the processing, warehousing, shipping or otherwise dealing with specific goods in the usual course of the trustee's business preparatory to their sale shall attach against the interest of the entruster in said goods as well as against the interest of the trustee, whether or not filing has occurred under this act; but this section shall not obligate the entruster personally for any debt secured by such lien; nor shall it be construed to include the lien of a landlord.

Entrusters not liable.

Section 12. **Entrusters Not Liable.** An entruster holding a security interest shall not, merely by virtue of such interest or of his having given the trustee liberty of sale or other disposition, be responsible as principal or as vendor under any sale or contract to sell made by the trustee.

Filing and refiling.

Section 13. **Filing and Refiling.** Subdivision 1. Any entruster undertaking or contemplating trust receipt transactions with reference to documents or goods is entitled to file with the registrar of motor vehicles in case the goods consist of automobiles, trucks, trailers and/or semi-trailers, or with the secretary of state and a copy with the clerk and recorder of the county wherein the goods and/or instruments are located in the case of any other trust receipt transaction a statement, signed by the entruster and the trustee, containing:

Contents of statement to be filed.

(a) a designation of the entruster and the trustee, and of the chief place of business of each within this state, if any; and if the entruster has no place of business within the state, a designation of his chief place of business outside the state; and

(b) a statement that the entruster is engaged, or ex-

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pects to be engaged, in financing under trust receipt transactions the acquisition of goods by the trustee; and

(c) a description of the kind or kinds of goods covered or to be covered by such financing.

Subdivision 2. The following form of statement (or any other form of statement containing substantially the same information) shall suffice for the purposes of this act.

STATEMENT OF TRUST RECEIPT FINANCING

"The entruster, ... whose chief place of business within this state is at .....,
(or who has no place of business within this state and whose chief place of business outside this state is at .....
.....) is or expects to be engaged in financing under trust receipt transactions the acquisition by the trustee, ... whose chief place of business within this state is at ..... of goods of the following description: (coffee, silk, automobiles, or the like.)
(Signed)..... ..... Entruster
(Signed)..... Trustee."

Form of statement.

Subdivision 3. It shall be the duty of the filing officer to mark each statement filed with a consecutive file number, and with the date and hour of filing, and to keep such statement in a separate file; and to note and index the filing in a suitable index, indexed according to the name of the trustee and containing a notation of the trustee's chief place of business as given in the statement. The fee for such filing shall be one dollar.

Duty of filing officer.

Fee.

Subdivision 4. Presentation for filing of the statement described in subdivision 1, and payment of the filing fee, shall constitute filing under this act, in favor of the entruster, as to any documents or goods falling within the description in the statement which are within one year from the date of such filing, or have been, within 30 days previous to such filing, the subject-matter of a trust receipt transaction between the entruster and the trustee.

What constitutes filing.

Subdivision 5. At any time before expiration of the validity of the filing, as specified in subdivision 4, a like statement, or an affidavit by the entruster alone, setting out the information required by subdivision 1, may be filed in like manner as the original filing. Any filing of such further statement or affidavit shall be valid in like manner

Continuation of security interest by filing another statement or affidavit.

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and for like period as an original filing, and shall also continue the rank of the entruster's existing security interest as against all junior interest. It shall be the duty of the filing officer to mark, file and index the further statement or affidavit in like manner as the original.

Entruster's security interest.

Section 14. **Entrusters Security Interest.** As against purchasers and creditors, the entruster's security interest may extend to any obligation for which the goods, documents or instruments were security before the trust receipt transaction, and to any new value given or agree to be given as a part of such transaction; but not, otherwise, to secure past indebtedness of the trustee; nor shall the obligation secured under any trust receipt transaction extend to obligations of the trustee to be subsequently created.

Application of act.

Section 15. **Application of Act.** This act shall not apply to single transactions of legal or equitable pledge, not constituting a course of business, whether such transactions be unaccompanied by delivery of possession, or involve constructive delivery, or delivery and redelivery, actual or constructive, so far as such transactions involve only an entruster who is an individual natural person, and a trustee entrusted as a fiduciary with handling investments or finances of the entruster; nor shall it apply to transactions of bailment or consignment in which the title of the bailor or consignor is not retained to secure an indebtedness to him of the bailee or consignee.

Election among filing statutes.

Section 16. **Election Among Filing Statutes.** As to any transaction falling within the provisions both of this act and of any other act requiring filing or recording, the entruster shall not be required to comply with both, but by complying with the provisions of either at his election may have the protection given by the act complied with; except that buyers in the ordinary course of trade as described in subdivision 2 of section 9, and lienors as described in section 11, shall be protected as therein provided, although the compliance of the entruster be with the filing or recording requirements of another act.

Rules of law to apply.

Section 17. **Rules of Law to Apply.** In any case not provided for in this act the rules of law and equity, including the law merchant, shall continue to apply to trust receipt transactions and purported pledge transactions not accompanied by delivery of possession.

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Section 18. **Interpretation of Act.** This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of the states which enact it. Interpretation of act.

Section 19. This act may be cited as the uniform trust receipts act. Name of act.

Approved February 28, 1945.

CHAPTER 148

An Act Creating and Establishing a Fund to Be Known As the "Post-war Planning and Construction Reserve Fund" and Appropriating Moneys Thereto; Providing for the Investment Thereof; Providing for Its Use; Providing for and Creating a "Post-war Planning and Construction Commission"; Prescribing Its Duties; Allowing the Commission to Employ Personnel; Directing the Commission to Make Plans and Surveys for Needed and Necessary Post-war Construction, Water Conservation and Improvements; Defining Post-war Period; Declaring This to Be a Supplementary Appropriation Bill, and Declaring That An Emergency Exists and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is hereby established a fund to be known as the "post-war planning and construction reserve fund", which shall consist of moneys appropriated, transferred or credited thereto by this act or by any other law. "Post-War planning and construction reserve fund" established.

Section 2. This fund shall be kept entirely separate and apart from all other funds of the State of Montana. The commission as provided for herein shall have the sole power and authority to invest all moneys of the fund in such securities as are legal for the investment of funds of the State of Montana. The interest and income from the investment of the fund shall be a part of the fund. Authority to invest moneys of fund.

Section 3. The said fund shall be held for such post-war use as shall hereafter be directed by the legislative assembly of the State of Montana, and no other use whatsoever shall be made except as hereinafter provided, and is to be used under such direction of the legislative assembly for the purpose of defraying or financing all or part of the cost of a Use for which fund is to be held.

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long range post-war program of public improvements and betterments for execution by the state or any of its agencies, including capital acquisition, replacements, additions, improvements, construction, reconstruction, deferred maintenance, developmental services, water conservation and such other purposes as may be authorized by the legislative assembly.

"Post-war planning and construction commission created.

Section 4. There is hereby created a commission to be known as the "post-war planning and construction commission" which shall consist of eleven members. The governor shall be a member of the commission and shall be the chairman and four members shall be appointed by the governor; three members of the house of representatives to be appointed by the speaker and three members of the senate to be appointed by the president upon the advice and consent of the committee on committees of the senate shall be ex-officio members of the commission, with right to vote.

Secretary and other employees.

The commission may appoint and employ a secretary and such other employees as are necessary to carry out the purpose and intent of this act.

Studies, plans and surveys to be made.

Section 5. The commission is hereby directed and authorized to make studies, plans and surveys for needed and necessary post-war construction, improvements and development in and about all institutions and buildings of every kind and character owned or operated by the State of Montana, and water conservation projects, including but not limited to educational, penal, correctional, administrative and custodial institutions, to the end that the design, plans and specifications, surveys and advisability of construction, together with the scope, cost, employment possibilities, materials and equipment needed for such projects following the termination of the war, will be readily available.

Date of termination of war emergency, what shall be.

The date of the termination of the war shall be the date proclaimed by the president as the termination of the existing war emergency or the date specified in a concurrent resolution of the two houses of congress as the date of such termination, or following the date on which the congress by a concurrent resolution of the two houses finds as a fact that the war emergency has been relieved to an extent that will justify construction, water conservation, improvements and developments as provided for herein.

Section 6. The commission is hereby authorized to main-

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tain liaison with federal, state and local officials and agencies having duties and responsibilities related to post-war planning.

Liaison with other officials and agencies.

Section 7. (a) The commission is hereby authorized to accept any grant of funds made by the United States or any department or agency thereof for the purpose of assisting it in the carrying out of any of its functions.

Grants of fund by the United States to be accepted.

(b) When the commission has completed studies of a long range post-war building, water conservation and construction program as provided herein, it shall submit such studies to the board of examiners who shall thereupon employ architects, engineers and such other personnel as may be necessary to prepare plans and specifications therefor and such architects and engineers and other personnel so employed shall be paid therefor from the appropriation for that purpose herein provided. Such plans and specifications shall upon their completion be submitted to the commission for its approval.

Studies to be submitted to board of examiners.

Plans and specifications.

(c) The members of the commission shall receive no compensation for their services but shall be reimbursed for the expenses necessarily incurred by them in the performance of their duties.

Members to receive no compensation.

(d) The commission may request and shall receive from any agency or political sub-division of the state such assistance and data as will enable it to carry out its duties.

Assistance and data from agencies and sub-divisions of state.

(e) The commission is hereby granted the sole power of investment of the fund herein provided for.

Investment of fund.

(f) The commission shall report to the governor and to the legislative assembly its acts, findings and proceedings as contemplated herein.

Report to governor and legislative assembly.

Section 8. There is hereby appropriated to the "post-war planning and construction reserve fund" provided for herein, the sum of four and one-half million dollars from any moneys in the state treasury not otherwise appropriated, and the state treasurer is hereby instructed to transfer such amount from the state general fund to the post-war planning and construction reserve fund of which appropriation the sum of ten thousand dollars ($10,000.00) shall be and it is hereby made available for administrative expenses, and the further sum of not to exceed two hundred fifty thousand dollars ($250,000.00) shall be and it is hereby made available for architectural and engineering costs as

Appropriation to fund.

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contemplated in Section 7 (b) above. Such moneys shall be payable on audit and warrant in the same manner as other funds of the State of Montana.

Emergency declared.

Section 9. The legislative assembly hereby finds, determines and declares this act to be necessary for the immediate preservation of the public peace, health and safety and does declare that an emergency exists and therefore provides that this act shall be in full force and effect from and after its passage and approval.

Budget act not applicable.

Section 10. This being a supplementary appropriation bill, the appropriations herein provided for shall be deemed and held valid, notwithstanding the provisions of the budget act.

Repealing clause.

Section 11. All acts and parts of acts in conflict herewith, so far as they affect the intent and purpose of this act, are hereby repealed.

Approved March 1, 1945.

CHAPTER 149

Title of act.

An Act Providing for the Submission At a Special Statewide Election of Chapter 39 of the Laws of the Twenty-ninth Legislative Assembly of the State of Montana, Which Is Entitled "An Act Known As 'State Highway Treasury Anticipation Debenture Act of 1945' and Authorizing and Directing the Issuance of Debentures of the State of Montana in the Principal Sum of Twelve Million Dollars, At Such Times Within a Period of Ten Years, and in Such Amounts Up to the Said Principal Sum As Shall From Time to Time Be Required for the Purposes Hereinafter Set Forth, and Providing for the Sale Thereof for the Use of the State Highway Fund for the Purpose of Matching Federal Highway Grants, and Assuring the Ability of the State of Montana to Secure Any Moneys Made Available By Acts of Congress in Reference to Highways, for Carrying On a Post-war Highway Program Calculated to Bring the Highway System of the State of Montana Up to the Established Standards of the Federal Highway Act, for Other Highway Purposes, and for the Payment of State Highway Treasury Anticipation Debentures of the State of Montana Now Outstanding; Providing for the Repeal of the License Tax On

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Dealers or Distributors of Gasoline Provided for in Initiative No. 41 Entitled 'State Highway Treasury Anticipation Debenture Act of 1938' As Amended by Chapter 30 of the Twenty-sixth Legislative Assembly of the State of Montana, and All Gallonage Taxes On Dealers or Distributors of Gasoline Imposed by Prior Laws; Providing for the Levying of a License Tax of Five Cents a Gallon to Be Paid by Dealers in Gasoline and Anticipating the Revenues Therefrom; Prescribing the Form, Terms and Conditions of Said Debentures, the Rate of Interest Thereon Not Exceeding Four Per Cent Per Annum, and the Dates of the Maturity of Said Debentures; Prescribing the Conditions Under Which the Sale of Such Debentures May Be Made, and the Use of the Funds to Be Derived from the Sale Thereof; Providing for the Repayment of Both Principal and Interest of Such Debentures, and for the Pledging and Setting Aside in the State Highway Treasury Anticipation Debenture Interest and Redemption Fund Herein Created of a Sufficient Amount of Said License Tax On Dealers in Gasoline to Pay Said Debentures and Interest; Providing for the Creation of a Liability Binding the State of Montana Not to Reduce the License Tax On Dealers in Gasoline Until After the Accrual of Sufficient Moneys to Pay Said Debentures and Interest; and Providing That No Part of the Proceeds of the License Tax Mentioned Shall Be Diverted to Any Purposes Other Than As Provided in This Act;" Providing for the Holding of a Special State-wide Election for the Submission of Such Act to the Electors of the State Qualified to Vote Thereon for Their Approval or Disapproval; Providing for a Proclamation by the Governor of the State of Montana Calling Such Election; Providing the Form of Ballot to Be Used At Such Election; Prescribing Duties of the Secretary of State and County Clerks in Connection with the Holding of Such Election; Providing for the Payment of the Cost of Holding Such Election and Making An Appropriation of Fifty Thousand Dollars from the General Fund of the State for the Purpose of Paying Such Election Costs.

Title of act.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Pursuant to Section 2 of Article XIII and Section 2 of Article IX of the constitution of the State of Montana, Chapter 39 of the laws of the twenty-ninth

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Chap. 39, laws of 1945, hereby submitted to electors.

legislative assembly of the State of Montana, entitled, "an act known as 'state highway treasury anticipation debenture act of 1945' and authorizing and directing the issuance of debentures of the State of Montana in the principal sum of twelve million dollars, at such times within a period of ten years, and in such amounts up to the said principal sum as shall from time to time be required for the purposes hereinafter set forth, and providing for the sale thereof for the use of the state highway fund for the purpose of matching federal highway grants, and assuring the ability of the State of Montana to secure any moneys made available by acts of congress in reference to highways, for carrying on a post-war highway program calculated to bring the highway system of the State of Montana up to the established standards of the federal highway act, for other highway purposes, and for the payment of state highway treasury anticipation debentures of the State of Montana now outstanding; providing for the repeal of the license tax on dealers or distributors of gasoline provided for in initiative No. 41 entitled 'state highway treasury anticipation debenture act of 1938' as amended by chapter 30 of the twenty-sixth legislative assembly of the State of Montana, and all gallonage taxes on dealers or distributors of gasoline imposed by prior laws; providing for the levying of a license tax of five cents a gallon to be paid by dealers in gasoline and anticipating the revenues therefrom; prescribing the form, terms and conditions of said debentures, the rate of interest thereon not exceeding four per cent per annum, and the dates of the maturity of said debentures; prescribing the conditions under which the sale of such debentures may be made, and the use of the funds to be derived from the sale thereof; providing for the repayment of both principal and interest of such debentures, and for the pledging and setting aside in the state highway treasury anticipation debenture interest and redemption fund herein created of a sufficient amount of said license tax on dealers in gasoline to pay said debentures and interest; providing for the creation of a liability binding the State of Montana not to reduce the license tax on dealers in gasoline until after the accrual of sufficient moneys to pay said debentures and interest; and providing that no part of the proceeds of the license tax mentioned shall be diverted to any purposes other than as provided in this act," shall be and is hereby submitted to the electors of the State of Montana qualified to vote thereon at a special election hereby called to be held on Tuesday, the 5th day of

Date of special election designated.

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June, 1945, for their approval or disapproval by a majority vote.

Proclamation by governor, and publication thereof.

Section 2. The governor shall by a proclamation published in at least one newspaper in each county of the state in the weeks of April 15-21, and April 22-28, 1945, set forth the fact of the calling of such special state-wide election by this act, the time of holding the same and the title of said chapter 39 of the laws of the twenty-ninth legislative assembly.

Duty of secretary of state in respect to printing and delivery of copies of the title of said act.

Section 3. The secretary of state shall, not later than the 18th day of May, 1945, cause to be printed and delivered to the county clerk and recorder of each county a true copy of the title of said "state highway treasury anticipation debenture act of 1945", with the form in which the same shall be printed on the official ballot and submitted to the people at such election. The secretary of state shall concurrently distribute to each county clerk a sufficient number of copies of said "state highway treasury anticipation debenture act of 1945", in full, to furnish one copy to every qualified elector in such county. Each county clerk shall be required to mail to each qualified elector in his respective county at least one copy of the same on or before fifteen days after the closing of registration. Each county clerk shall return to the secretary of state, with the abstract of votes on said referred act in his county an affidavit duly executed, showing compliance with this section, and the secretary of state shall file an affidavit of his compliance with all provisions of this act in the record of said election in his office.

Copies of act to be mailed to electors by county clerks.

Printed ballots, county clerk to provide.

Section 4. It is hereby made the duty of the county clerk of each county to provide printed ballots for the election herein called, and to furnish the election judges, clerks and officers in each precinct of his county with a number at least equivalent to twenty more than will be required for the eligible electors therein. Such ballot shall have printed thereon the words:

Matter to be printed on ballots.

"An act known as 'state highway treasury anticipation debenture act of 1945' and authorizing and directing the issuance of debentures of the State of Montana in the principal sum of twelve million dollars, at such times within a period of ten years, and in such amounts up to the said principal sum as shall from time to time be required for the purposes hereinafter set forth, and providing for the sale thereof for the use of the state highway fund for the pur-

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Matter to be printed on ballots.

pose of matching federal highway grants, and assuring the ability of the State of Montana to secure any moneys made available by acts of congress in reference to highways, for carrying on a post-war highway program calculated to bring the highway system of the State of Montana up to the established standards of the federal highway act, for other highway purposes, and for the payment of state highway treasury anticipation debentures of the State of Montana now outstanding; providing for the repeal of the license tax on dealers or distributors of gasoline provided for in initiative No. 41 entitled 'state highway treasury anticipation debenture act of 1938' as amended by chapter 30 of the twenty-sixth legislative assembly of the State of Montana, and all gallonage taxes on dealers or distributors of gasoline imposed by prior laws; providing for the levying of a license tax of five cents a gallon to be paid by dealers in gasoline and anticipating the revenues therefrom; prescribing the form, terms and conditions of said debentures, the rate of interest thereon not exceeding four per cent per annum, and the dates of the maturity of said debentures; prescribing the conditions under which the sale of such debentures may be made, and the use of the funds to be derived from the sale thereof; providing for the repayment of both principal and interest of such debentures, and for the pledging and setting aside in the state highway treasury anticipation debenture interest and redemption fund herein created of a sufficient amount of said license tax on dealers in gasoline to pay said debentures and interest; providing for the creation of a liability binding the State of Montana not to reduce the license tax on dealers in gasoline until after the accrual of sufficient moneys to pay said debentures and interest; and providing that no part of the proceeds of the license tax mentioned shall be diverted to any purposes other than as provided in this act."

Below the said title of the act on the said ballot there shall be printed:

☐ "For the above entitled act.

☐ Against the above entitled act."

Section 5. All of the laws of this state governing and controlling the registration of electors, preparing of lists

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of registered electors, poll books, and ballots, insofar as the same are applicable thereto and not in conflict with any of the provisions of this act, shall apply to, govern and control such special election. The votes cast for and against said highway treasury anticipation debenture act of 1945 at such special election shall be counted, canvassed and determined by such officials and in such manner as provided by the general election laws of this state, and if a majority of all votes cast at such election for and against such act shall be in favor thereof, the governor of the state shall so declare by public proclamation, and such act shall be in full force and effect from and after the date of such proclamation.

General election laws, so far as applicable, to apply to such special election.

Counting and canvassing of votes.

Section 6. In all cases in which the counties of this state are required to incur expense and pay claims in connection with the election ordered hereby, such counties shall be entitled to reimbursement and shall be reimbursed by the State of Montana for such expenditures, upon presentation of their claims therefor.

Expense by counties to be reimbursed.

Section 7. There is hereby appropriated out of any money in the state general fund not otherwise appropriated the sum of fifty thousand dollars or so much thereof as may be necessary to pay the cost and expense of such election, and all expenses in anywise lawfully incurred in connection with the same, or in carrying out the election provisions of said act, and the same shall be charged against and paid out of said fund, upon claims presented by the several counties or other persons to the state board of examiners and by said state board of examiners approved, and the state auditor shall draw, issue and deliver his warrants therefor; provided, however, that the state and the counties therein are hereby authorized to accept the services of the election officials without payment therefor, if the same are tendered, and in all other lawful ways to keep the expense of such election at a minimum.

Appropriation to pay expense of election.

Section 8. Appropriation hereinabove provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Budget act not applicable.

Section 9. This act shall be in full force and effect on and after its passage and approval.

Effective date.

Approved March 1, 1945.

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CHAPTER 150

An Act Relating to the Salaries of County Officers; Providing a Method and Procedure for Fixing and Determining Such Salaries; Requiring Boards of County Commissioners to Fix Such Salaries in Accordance With Such Method and Procedure; and Repealing Sections 4867, 4869, 4870 and 4871 Revised Codes of Montana 1935, and All Other Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Salaries of county treasurers, clerks, assessors and superintendents of schools.

Section 1. The salaries of county treasurers, county clerks, county assessors and county superintendents of schools shall be based on the population and taxable valuation of the county in accordance with the following schedule:

Population of County	Salary Col. A	Taxable Valuation of County	Salary Col. B
Below 3,000	$ 960	Below $ 2,000,000	$ 960
3,000 to 3,999	1,008	$ 2,000,000 to 2,999,999	1,008
4,000 to 4,999	1,056	3,000,000 to 3,999,999	1,056
5,000 to 5,999	1,104	4,000,000 to 4,999,999	1,104
6,000 to 6,999	1,152	5,000,000 to 5,999,999	1,152
7,000 to 7,999	1,200	6,000,000 to 6,999,999	1,200
8,000 to 8,999	1,248	7,000,000 to 7,999,999	1,248
9,000 to 9,999	1,296	8,000,000 to 9,999,999	1,296
10,000 to 12,499	1,344	10,000,000 to 11,999,999	1,344
12,500 to 14,999	1,392	12,000,000 to 13,999,999	1,392
15,000 to 17,499	1,440	14,000,000 to 15,999,999	1,440
17,500 to 19,999	1,488	16,000,000 to 17,999,999	1,488
20,000 to 24,999	1,536	18,000,000 to 19,999,999	1,536
25,000 to 29,999	1,584	20,000,000 to 22,499,999	1,584
30,000 to 39,999	1,632	22,500,000 to 24,999,999	1,632
40,000 to 49,999	1,680	25,000,000 to 29,999,999	1,680
50,000 and over	1,728	30,000,000 and over	1,728

Total salary, how determined.

The total salary paid to county treasurers, county clerks, county assessors and county superintendents of schools shall be the sum of the salary shown in column A based on population when added to the salary shown in column B based on taxable valuation.

Salary of sheriffs.

Section 2. The salary of the county sheriff shall be two thousand ($2,000) dollars in counties where the county

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treasurer is paid this amount or less, and three thousand five hundred ($3,500) dollars in counties having a population of over forty thousand (40,000). In all other counties the salary of the sheriff shall be the same as that of the county treasurer.

Salary of attorneys.

Section 3. The salary of the county attorney shall be one thousand five hundred ninety six ($1,596.00) dollars in counties of less than four thousand (4,000) population. In counties with a population of over forty thousand (40,000) the salary of the county attorney shall be three thousand ($3,000) dollars. In all other counties the salary of the county attorney shall be three hundred ($300.00) dollars a year less than that of the county treasurer.

Salary of clerks of court.

Section 4. The salary of the clerk of the district court shall be one thousand eight hundred ($1,800) dollars in counties with a population of less than four thousand (4,000). In counties with a population of over forty thousand (40,000) the salary of the clerk of the district court shall be three thousand ($3,000) dollars. In all other counties the salary of the clerk of the district court shall be three hundred ($300.00) dollars less than that of the county treasurer.

Salaries to be fixed by county commissioners in September of each election year.

Section 5. In September of any year in which the county treasurer, county clerk, county assessor, county school superintendent, county sheriff, county attorney, or clerk of the district court is to be elected, the county commissioners shall, by resolution, fix the salaries of the officials to be elected in conformity with the schedule in section 1, based on the population as shown in the last decennial federal census and on the taxable valuation of the county at the time the salaries are fixed. Salaries so fixed shall apply during the entire term for which the foregoing officials are elected and should a vacancy occur, the person appointed or elected to fill the unexpired term in the office vacated shall receive the same salary as the person vacating the office.

Repealing clause.

Section 6. Sections 4867, 4869, 4870 and 4871 Revised Codes of Montana 1935, and all other acts and parts of acts in conflict with this act, or any of the provisions hereof, are hereby repealed.

Effective date.

Section 7. This act shall be in full force and effect on and after July 1, 1945, but shall not in any manner affect

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Salaries of incumbents not affected.

the salaries of those county officers who are in office at the date such act goes into effect, such officers being entitled to the same salaries they are receiving at the date this act takes effect for the remainder of the terms for which they were elected.

Approved March 1, 1945.

CHAPTER 151

An Act to Amend Section 4874 Revised Codes of Montana 1935, As Amended by Section 1 of Chapter 87 Session Laws 1943, Relating to the Number and Salaries of Deputy and Assistant County Officers.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 4874, R. C. 1935, as amended, further amended.

Section 1. That Section 4874 Revised Codes of Montana 1935, as amended by Section 1 of Chapter 87 Session Laws 1943, be and the same is hereby amended to read as follows:

Number and salaries of deputies and assistants to be fixed by commissioners.

"Section 4874. That the boards of county commissioners in the several counties in the state shall have the power to fix the compensation allowed any deputy or assistant mentioned in the preceding section; provided, the salary of no deputy or assistant shall be more than *eighty percent (80%)* of the salary of the officer under whom such deputy or assistant is serving; where any deputy or assistant is employed for a period of less than one year the compensation of such deputy or assistant shall be for the time so employed; provided, the rate of such compensation shall not be in excess of the rates now provided by law for similar deputies and assistants; said boards of county commissioners shall likewise have the power to fix and determine the number of deputy county officers and allow to the several county officers a greater or less number of deputies or assistants, than the maximum number allowed by law, when in the judgment of the board of county commissioners such greater or less number of deputies is or is not needed for the faithful and prompt discharge of the duties of any county office *provided that after this act becomes effective the maximum salary rate per month of any deputy or assistant should not be less than the maximum salary allowed in any month of the year immediately previous to the date this act becomes effective.*"

Maximum salary rate limited.

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Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 3. This act shall be in full force and effect on and after the first day of January, 1947. Effective date.

Approved March 1, 1945.

CHAPTER 152

An Act Relating to Aeronautics; Providing for the Development and Regulation Thereof Within the State of Montana; Creating a State Aeronautics Commission and Defining Its Powers and Duties With Respect to the Licensing, Regulation and Control of Aircraft, Airmen, Airports, Air Instruction and Other Matters Pertaining to Aviation; Providing for the Promulgation and Enforcement of Rules and Regulations by Said Commission; Providing for the Acquisition and Operation of State Airports; Creating a State Aviation Fund and Providing for the Use of Certain Gasoline License Tax Refund Monies for Said Fund; Defining the Terms Used in This Act and Making a Declaration of Policy; Providing for the Supervision of Aviation Facilities, Schools and Flying Clubs; Providing for Hearings and Investigations by Said Commission and for Appeals from Its Orders; Regulating the Admission of Certain Testimony; Requiring Federal Certificates and Pilots Licenses for the Operation of Aircraft; Providing for the Licensing of Aviation Schools and Flying Clubs; Providing for Cooperation Between the State Aeronautics Commission and the Federal Government in the Regulation, Licensing and Control of Aviation and All Aviation Facilities; Authorizing Said Commission to Accept and Make Use of Federal Monies On Bel alf of the State and Municipalities Thereof and Providing for the Disposition of Such Funds; Providing for the Enforcement of This Act and Establishing Penalties for Its Violation; Regulating Leases and Sales, Charges and Rentals of Property Administered by the Commission and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. This act, divided into titles and sections, according to the following table of contents, may be cited as the "State Aeronautical Regulatory Act": Name of act.

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TITLE I—GENERAL PROVISIONS

Section 2. **Definitions:**

Definitions.

1. For the purpose of this act, the following words, terms, and phrases shall have the meanings herein given, unless otherwise specifically defined, or unless another intention clearly appears, or the context otherwise requires.

"Aeronautics."

2. "Aeronautics" means transportation by aircraft; the operation, construction, repair, or maintenance of aircraft, aircraft power plants and accessories, including the repair, packing, and maintenance of parachutes; the design, establishment, construction, extension, operation, improvement, repair, or maintenance of airports, restricted landing areas, or other air navigation facilities, and air instruction.

"Aircraft."

3. "Aircraft" means any contrivance now known, or hereafter invented, used or designed for navigation of or flight in the air.

"Public aircraft."

4. "Public aircraft" means any aircraft used exclusively in the service of any government or of any political subdivision thereof, including the government of any state, territory, or possession of the United States, or the District of Columbia, but not including any government-owned aircraft engaged in carrying persons or property for commercial purposes.

"Civil aircraft."

5. "Civil aircraft" means any aircraft other than a public aircraft.

"Airport."

6. "Airport" means any area, of land or water, except a restricted landing area, which is designed for the landing and take-off of aircraft, whether or not facilities are provided for the shelter, servicing, or repair of aircraft, or for receiving or discharging passengers or cargo, and all appurtenant areas used or suitable for airport buildings or other airport facilities, and all appurtenant rights of way, whether heretofore or hereafter established.

"Commission."

7. "Commission" means the state aeronautical commis-

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sion created by this act; "state" or "this state" means the State of Montana.

"Restricted area."

8. "Restricted area" means any area of land, water or both, which is used or is made available for the landing and take-off of aircraft, the use of which shall, except in case of emergency, be only as provided from time to time by the commission.

"Air navigation facility."

9. "Air navigation facility" means any facility other than one owned or controlled by the federal government, used in, available for use in, or designed for use in, aid of air navigation, including airports, restricted landing areas, and any structures, mechanisms, lights, beacons, marks, communicating systems, or other instrumentalities or devices used or useful as an aid, or constituting an advantage or convenience, to the safe taking-off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport or restricted area, and any combination of any or all of such facilities.

"Air navigation."

10. "Air navigation" means the operation or navigation of aircraft in the air space over this state, or upon any airport or restricted landing area within this state.

"Operation of aircraft."

11. "Operation of aircraft" or "operate aircraft" means the use of aircraft for the purpose of air navigation, and includes the navigation or piloting of aircraft. Any person who causes or authorizes the operation of aircraft, whether with or without the right of legal control (in the capacity of owner, lessee, or otherwise) of the aircraft, shall be deemed to be engaged in the operation of aircraft within the meaning of the statutes of this state.

"Airman."

12. "Airman" means any individual who engages, as the person in command, or as pilot, mechanic, or member of the crew, in the navigation of aircraft while under way and (excepting individuals employed outside the United States, any individual employed by a manufacturer of aircraft, aircraft engines, propellers, or appliances to perform duties as inspector or mechanic in connection therewith, and any individual performing inspection or mechanical duties in connection with aircraft owned or operated by him) any individual who is directly in charge of the inspection, maintenance, overhauling, or repair of aircraft engines, propellers, or appliances; and any individual who serves in the capacity of aircraft dispatcher or air-traffic control-tower operator.

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"Air instruction." 13. "Air instruction" means the imparting of aeronautical information by any aeronautics instructor or in or by any air school or flying club.

"Air school." 14. "Air school" means any person engaged in giving or offering to give, instruction, in aeronautics, either in flying or ground subjects, or both, for or without hire or reward, and advertising, representing, or holding himself out as giving or offering to give such instruction. It does not include any public school or university of this state, or any institution of higher learning duly accredited and approved for carrying on collegiate work.

"Aeronautics instructor." 15. "Aeronautics instructor" means any individual engaged in giving instruction, or offering to give instruction, in aeronautics, either in flying or ground subjects, or both, for hire or reward, without advertising such occupation, without calling his facilities an "air school" or anything equivalent thereto, and without employing or using other instructors. It does not include any instructor in any public school or university of this state, or any institution of higher learning duly accredited and approved for carrying on collegiate work, while engaged in his duties as such instructor.

"Flying club." 16. "Flying club" means any person other than an individual, which, neither for profit nor reward, owns, leases, or uses one or more aircraft for the purpose of instruction or pleasure or both.

"Person." 17. "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof.

"State airway." 18. "State airway" means a route in the navigable air space over and above the lands or waters of this state, designated by the commission as a route suitable for air navigation.

"Navigable air space." 19. "Navigable air space" means air space above the minimum altitudes of flight prescribed by the laws of this state or by regulations of the commission consistent therewith.

"Municipality." 20. "Municipality" means any county, city, village or town of this state and any other political subdivision, public corporation, authority, or district in this state which is or

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may be authorized by law to acquire, establish, construct, maintain, improve, and operate airports and other air navigation facilities.

"Airport protection privileges."

21. "Airport protection privileges" means easements through or other interests in air space over land or water, interests in airport hazards outside the boundaries of airports or restricted landing areas, and other protection privileges, the acquisition or control of which is necessary to insure safe approaches to the landing areas of airports and restricted landing areas and the safe and efficient operation thereof.

"Airport hazard."

22. "Airport hazard" means any structure, object of natural growth, or use of land, which obstructs the air space required for the flight of aircraft in landing or taking off at any airport or restricted landing area or is otherwise hazardous to such landing or taking off.

The singular and the plural.

23. The singular shall include the plural, and the plural the singular.

Section 3. **Declaration of Policy.**

Declaration of policy.

It is hereby declared that the purpose of this act is to further the public interest and aeronautical progress by providing for the protection and promotion of safety in aeronautics; by co-operating in effecting a uniformity of the laws relating to the development and regulation of aeronautics in the several states; by revising existing statutes relative to the development and regulation of aeronautics so as to grant to a state agency such powers and impose upon it such duties that the state may properly perform its functions relative to aeronautics and effectively exercise its jurisdiction over persons and property within such jurisdiction, may assist in the promotion of a statewide system of airports, may co-operate with and assist the political subdivisions of this state and others engaged in aeronautics, and may encourage and develop aeronautics; by establishing uniform regulations, consistent with federal regulations and those of other states, in order that those engaged in aeronautics of every character may so engage with the least possible restriction, consistent with the safety and the rights of others; and by providing for co-operation with the federal authorities in the development of a national system of civil aviation and for co-ordination of the aeronautical activities of those authorities and the authorities of this state

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by assisting in accomplishing the purposes of federal legislation and eliminating costly and unnecessary duplication of functions.

TITLE II—STATE AERONAUTICS COMMISSION.

Section 4. **Creation.**

State aeronautics commission created—its composition.

(a) Composition. There is hereby created a commission to be known as the state aeronautics commission. Said commission shall consist of seven persons who shall be appointed by the governor within thirty days after the passage and approval of this act, and who shall serve without compensation except that they shall receive a per diem of $10.00 for each day actually expended in the performance of their duties under this act and shall be reimbursed for all actual and necessary traveling expenses, incurred by them in the discharge of their official duties, provided, however, that no member of the commission shall receive per diem allowance in excess of five hundred dollars ($500.00) annually. The governor shall appoint the members of said commission in the following manner: One shall be selected from the Montana Pilots' Association; one from Montanans, Incorporated; one from the Municipal League; one from the County Commissioners Association; one selected from among those actively engaged in aviation education in Montana; one to be selected by the governor as a representative of interstate commercial airline operators, who must at the time of appointment, be an employee, or official of such an operator, and whose residence must be within the State of Montana; and one to be selected by the governor, who is an active base operator in the state at the time of his appointment or an official of such base operator of flying services, or flying schools.

Compensation of members.

Manner of appointment.

Term of service.

(b) The members of the said commission shall serve for a period of four years from date of their appointment and until their successors are appointed and qualified. Provided, however, that in making said appointments, the governor may shorten the term of two of said appointees to any period of time less than four years so that the terms of office of all seven members of the commission shall not expire in the same year. The members of the commission may be removed by the governor after notice and hearing for inefficiency, neglect of duty, or malfeasance in office.

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Section 5. **Organization, Meetings, Reports.**

Organization, and meetings.

The commission shall, within 30 days after its appointment, organize, adopt a seal, and make such rules and regulations for its administration, not inconsistent herewith, as it may deem expedient and may from time to time amend such rules and regulations. At such organization meeting it shall elect from among its members a chairman, a vice chairman and a secretary, to serve for one year, and annually thereafter shall select such officers; all to serve until their successors are appointed and qualified. It shall at its initial meeting fix the date and place for its regular meetings. Four members shall constitute a quorum, and no action shall be taken by less than a majority of the commission. Special meetings may be called as provided by its rules and regulations. All regular and special commission meetings shall be open to the public. It shall report in writing to the governor on or about December 1st, of each year. Said report shall contain a summary of its proceedings during the preceding fiscal year, a detailed and itemized statement of all revenue and of all expenditures made by or in behalf of the commission, such other information as it may deem necessary or useful, and any additional information which may be requested by the governor. The fiscal year of the commission shall conform to the fiscal year of the state.

Quorum.

Annual report.

Section 6. **Office and Expense—Employees.**

Offices.

Suitable offices and office equipment shall be provided by the state for the commission in the city of Helena, and it may maintain offices in any other city in the state that it may designate and may incur the necessary expense for office furniture, stationery, printing, incidental expenses, and other expenses necessary for the enforcement of this act and the general promotion of aeronautics within the state. Regular meetings shall be held at its offices at Helena, but, whenever the convenience of the public or of the parties may be promoted, or delay or expense may be prevented, it may hold hearings or proceedings at any other place designated by it. It may employ such clerical and other employees and assistants as it may deem necessary for the proper transaction of its business and shall fix their salaries.

Expenses.

Meetings, hearings and proceedings.

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Section 7. **General Powers and Duties of Commission.**

General powers and duties of commission.

(a) The commission shall have general supervision over aeronautics within this state. It is empowered and directed to encourage, foster, and assist in the development of aeronautics in this state and to encourage the establishment of airports and other air navigation facilities.

Co-operation with federal government.

(b) Co-operation with federal government—It shall co-operate with and assist the federal government, the political subdivisions of this state, and others engaged in aeronautics or the promotion of aeronautics, and shall seek to co-ordinate the aeronautical activities of these bodies. To this end, the commission is empowered to confer with or to hold joint hearings with any federal aeronautical agency in connection with any matter arising under this act, or relating to the sound development of aeronautics, and to avail itself of the co-operation, services, records, and facilities of such federal agencies, as fully as may be practicable, in the administration and enforcement of this act. It shall reciprocate by furnishing to the federal agencies its co-operation, services, records and facilities, insofar as may be practicable.

Accidents in aeronautics, report and procedure with respect to.

It shall report to the appropriate federal agency all accidents in aeronautics in this state of which it is informed and preserve, protect and prevent the removal of the component parts of any aircraft involved in an accident being investigated by it until a federal agency institutes an investigation. It shall report to the appropriate federal agency all refusals by it to register federal licenses, certificates or permits and all revocations of certificates of registration, and the reasons therefor, and all penalties of which it has knowledge imposed upon airmen for violations of the laws of this state relating to aeronautics or for violations of the rules, regulations or orders of the commission.

Rules, regulations and standards.

(c) Rules, regulations and standards—It may perform such acts, issue and amend such orders and make, promulgate and amend such reasonable general or special rules, regulations and procedure, and establish such minimum standards, consistent with the provisions of this act, as it shall deem necessary to carry out the provisions of this act and to perform its duties hereunder; all commensurate with and for the purpose of protecting and insuring the general public interest and safety, the safety of persons receiving instruction concerning, or operating, using or traveling in aircraft, and of persons and property on land or water, and

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to develop and promote aeronautics in this state. No rule or regulation of the commission shall apply to airports or other air navigation facilities owned or controlled by the federal government within this state.

Conformity to federal legislation and rules.

(d) Conformity to federal legislation and rules—All rules and regulations prescribed by the commission under the authority of this act shall be kept in conformity, as nearly as may be, with the then current federal legislation governing aeronautics and the regulations duly promulgated thereunder and rules and standards issued from time to time pursuant thereto.

Filing of rules.

(e) Filing of rules—It shall keep on file at the principal office of the commission, a copy of all its rules and regulations, for public inspection.

State airways system.

(f) State airways system—It may designate, design and establish, expand, or modify a state airways system which will best serve the interests of the state. It may chart such airways system and arrange for publication and distribution of such maps and charts and notices and bulletins relating to such airways as may be required in the public interest. The system shall be supplementary to and co-ordinated in design and operation with the federal airways system. It may include all types of air navigation facilities, whether publicly or privately owned, provided that such facilities conform to federal safety standards.

Technical services to municipalities.

(g) Technical services to municipalities—It may, insofar as is reasonably possible, offer the engineering or other technical services of the commission, without charge, to any municipality desiring them in connection with the construction, maintenance or operation or proposed construction, maintenance, or operation of an airport or restricted landing area.

Legislation.

(h) Legislation—It may draft and recommend necessary legislation to advance the interests of the state in aeronautics and represent the state in aeronautical matters before federal agencies and other state agencies.

Intervention.

(i) Intervention—It may participate as party plaintiff or defendant, or as intervener on behalf of the state or any municipality or citizen thereof in any controversy having to do with any claimed encroachment by the federal government or any foreign state upon any state or individual rights pertaining to aeronautics.

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Enforcement of aeronautics laws.

(j) Enforcement of aeronautics laws—It shall be the duty of the commission, its members and employees, and every state, county and municipal officer charged with the enforcement of state or municipal laws to enforce and assist in the enforcement of this act and of all rules and regulations issued pursuant thereto, and of all other laws of this state relating to aeronautics, and, in the aid of such enforcement, general police powers are hereby conferred upon the commission, each of its members, and such of the officers and employees of the commission as may be designated by it to exercise such powers. The commission is further authorized, in the name of the state, to enforce the provisions of this act and the rules and regulations issued pursuant thereto by injunction in the courts of this state. Municipalities are authorized to co-operate with the commission in the development of aeronautics and aeronautics facilities in this state. (The commission may use the facilities and services of other agencies of the state when reasonably available.)

Investigations.

(k) Investigations—The commission, any member thereof, or any officer or employee of the commission designated by it shall have the power to hold investigations, inquiries, and hearings concerning matters covered by the provisions of this act and orders, rules, and regulations of the commission, and concerning accidents in aeronautics within this state. All hearings so conducted shall be open to the public. Each commissioner and every officer or employee of the commission designated by it to hold any inquiry, investigations, or hearing shall have power to administer oaths and affirmations, certify to all official acts, issue subpoenas, and compel the attendance and testimony of witnesses, and the production of papers, books, and documents. In case of failure to comply with any subpoenas or orders issued under authority of this act, the commission, or its authorized representative, may invoke the aid of any court of this state of general jurisdiction. The court may thereupon order the witness to comply with the requirements of the subpoena or order or to give evidence touching the matter in question. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

Administration of oaths and other powers of individual commissioners.

Reports of investigations, limitations on use of.

(l) Reports of investigations—Limitations on use—In order to facilitate the making of investigations by the commission, in the interest of public safety and promotion of aeronautics, the public interest requires, and it is, therefore provided that the reports of investigations or hearings, or

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any part thereof, shall not be admitted in evidence or used for any purpose in any suit, action or proceedings, growing out of any matter referred to in said investigation, hearing, or report thereof, except in case of criminal or other proceedings instituted in behalf of the commission or this state under the provisions of this act and other laws of this state relating to aeronautics, nor shall any commissioners, or any officer or employee of the commission be required to testify to any facts ascertained in, or information gained by reason of, his official capacity, or be required to testify as an expert witness in any suit, action, or proceeding involving any aircraft. Subject to the fore-going provisions, the commission may in its discretion make available to appropriate federal and state agencies information and material developed in the course of its hearings and investigations.

Financial assistance to municipalities.

(m) Financial assistance to municipalities—The commission may render assistance in the acquisition, development, operation, or maintenance of airports owned, controlled or operated by municipalities in this state, out of appropriations made by the legislature for that purpose.

Authority to contract.

(n) Authority to contract—The commission may enter into any contracts necessary to the execution of the powers granted the commission by this act.

No exclusive rights granted.

(o) No exclusive rights granted—The commissioner shall grant no exclusive right for the use of any airway, airport, restricted landing area, or other air navigation facility under its jurisdiction. This subdivision shall not prevent the making of leases in accordance with other provisions of this act.

Section 8. **Federal Aid.**

Co-operation with federal government.

(a) Co-operation with government—The commission is authorized to co-operate with the government of the United States, and any agency or department thereof, in the acquisition, construction, improvement, maintenance and operation of airports and other air navigation facilities in this state, and to comply with the provisions of the laws of the United States and any regulations made thereunder for the expenditure of federal monies upon such airports and other navigation facilities.

(b) Authority to receive federal monies for state and municipalities—It is authorized to accept, receive, and re-

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Authority to receive federal monies for state and municipalities.

ceipt for federal monies and other monies either public or private, for and in behalf of this state, or any municipality thereof, for the acquisition, construction, improvement, maintenance and operation of airports and other air navigation facilities, whether such work is to be done by the state or by such municipalities, or jointly, aided by grants of aid from the United States, upon such terms and conditions as are or may be prescribed by the laws of the United States and any rules or regulations made thereunder, and it is authorized to act as agent of any municipality of this state upon the request of such municipality, in accepting, receiving, and receipting for such monies in its behalf for airports or other air navigation facility purposes, and in contracting for the acquisition, construction, improvement, maintenance, or operation of airports or other air navigation facilities, financed either in whole or in part by federal monies, and the governing body of any such municipality is authorized to designate the commission as its agent for such purposes and to enter into an agreement with it prescribing the terms and conditions of such agency in accordance with federal laws, rules, and regulations and with this act. Such monies as are paid over by the United States government shall be retained by the state or paid over to said municipalities under such terms and conditions as may be imposed by the United States government in making such grants.

Contracts, laws governing.

(c) Contracts—Law governing—All contracts for the acquisition, construction, improvement, maintenance and operation of airports, or other air navigation facilities made by the commission, either as the agent of this state or as the agent of any municipality, shall be made pursuant to the laws of this state governing the making of like contracts by the state or by municipalities; provided, however, that, where the acquisition, construction, improvement, maintenance and operation of any airport, landing strip, or other air navigation facility is financed wholly or partially with federal monies, the commission, as agent of the state or of any municipality thereof, may let contracts in the manner prescribed by the federal authorities, acting under the laws of the United States, and any rules or regulations made thereunder, notwithstanding any other state law to the contrary.

Disposition of federal funds.

(d) Disposition of federal funds—All monies accepted for disbursement by the commission pursuant to subdivision of this section shall be deposited in the state treasury, and,

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unless otherwise prescribed by the authority from which the money is received, kept in separate funds, designated according to the purposes for which the monies were made available, and held by the state in trust for such purposes. All such monies are hereby appropriated for the purposes for which the same were made available, to be expended in accordance with federal laws and regulations and with this act. The commission is authorized, whether acting for this state or as the agent of any of its municipalities, or when requested by the United States government or any agency or department thereof, to disburse such monies for the designated purposes, but this shall not preclude any other authorized method of disbursement.

Disbursement of such monies.

TITLE III—REGULATION AND LICENSES.

Section 9. **Regulation of Aircraft, Airmen, Airports and Air Instruction.**

(a) In order to promote the general public interest and safety and to carry out the purposes of this act, the commission is authorized:

Authority of commission.

(b) To require the annual registration of federal licenses, permits or certificates of civil aircraft engaged in air navigation within this state, of airmen engaged in aeronautics within this state, and of aeronautics instructors giving instruction in flying subjects, and to issue certificates of such registration. Such certificates of registration shall constitute licenses of such aircraft, airmen and instructors for operations within this state to the extent permitted by the federal licenses, certificates or permits so registered. It may charge a fee for the registration of each federal license, certificate or permit not exceeding one dollar. It may accept as evidence of the holding of a federal license, certificate or permit the verified application of the owner of the aircraft, the airman or the instructor, which application shall contain such information as the commission may by rule, regulation, or order prescribe.

Registration of federal licenses, and issuance of certificates.

Fee may be charged.

Verified application as evidence.

(c) To require the registration of aircraft repair shops, aircraft, aircraft parts and sales dealers and other persons operating in aviation. To license aircraft repair shops, aircraft, aircraft parts and dealers and other persons operating in aviation, the operation of air schools and aeronautics instructors giving instruction in ground subjects in accordance with rules and regulations to be adopted by the

Registration and licensing of aircraft repair shops, aircraft parts and sales dealers.

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commission and to annually renew such licenses. It may charge for the original licensing of aircraft repair shops, aircraft, aircraft parts and sales dealers and other persons operating in aviation, air schools and aeronautics instructors not more than one dollar ($1.00) and for the renewal of any such license not more than one dollar ($1.00).

Charges.

Licensing of airports, restricted landing areas or other navigation facilities.

(d) To approve airport and restricted landing area sites and to license airports, restricted landing areas, or other air navigation facilities, in accordance with rules and regulations to be adopted by the commission, (and to annually renew such licenses). (Licenses granted under this section or under any prior law shall be annually renewed upon payment of the fee therefor), and licenses shall be granted for airports and restricted landing areas which were being operated on or before the 1st day of April, 1945, without the requirement of a certificate of approval, unless the commission shall reasonably determine, after a public hearing to be called by it and held in the same manner and upon the same notice as is provided for hearings upon certificates of approval or original licenses, that the operation of such airport or restricted landing area is hazardous to persons operating, using or traveling in aircraft or to persons and property on the ground. It shall make no charge for approval certificates of proposed property acquisition for airport or restricted landing area purposes. It may charge for the issuance of each original license for an airport or restricted landing area not to exceed $1.00 (and, for each annual renewal of such license, not to exceed $1.00).

Charges.

Revocation of licenses or certificates.

(e) To temporarily or permanently revoke any license or certificate of registration of an aircraft, airman, air school, or aeronautics instructor, issued by it, upon notification by the civil aeronautics authority that it has revoked the license or certificate of an aircraft, airman, air school, or aeronautics instructor, giving reasons for such action.

Operations unlawful without license or certificate.

(f) Operations unlawful without license or certificate—Except as hereinafter provided, it shall be unlawful for any person to operate or cause or authorize to be operated any civil aircraft within this state unless such aircraft has an appropriate effective license, certificate or permit issued by the United States government which has been registered with the commission and such registration with the commission is in full force and effect, and it shall be unlawful for any person to engage in aeronautics as an airman in this

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state unless he has from the commission an effective certificate of registration of an appropriate effective airman's license, certificate or permit issued by the United States government authorizing him to engage in the particular class of aeronautics in which he is engaged.

(g) Exceptions to registration requirements—The provisions of paragraph (c) of section 9 and paragraph (e) of this section shall not apply to: Exceptions to registration requirements.

(1) An aircraft which has been licensed by a foreign country with which the United States has a reciprocal agreement covering the operations of such licensed aircraft; Aircraft licensed by foreign country.

(2) An aircraft which is owned by a non-resident of this state who is lawfully entitled to operate such aircraft in the state of his residence; Aircraft owned by non-resident of state.

(3) An aircraft engaged principally in commercial flying constituting an act of interstate or foreign commerce; Aircraft in interstate commerce.

(4) An airman operating military or public aircraft, or any aircraft licensed by a foreign country with which the United States has a reciprocal agreement covering the operation of such licensed aircraft; Airman excepted, when.

(5) Persons operating model aircraft nor to any person piloting an aircraft which is equipped with fully functioning dual controls when a licensed instructor is in full charge of one set of said controls and such flight is solely for instruction or for the demonstration of said aircraft to a bona fide prospective purchaser; Other persons excepted.

(6) A non-resident operating aircraft in this state who is lawfully entitled to operate aircraft in the state of residence; Non-resident who is entitled to operate in state of residence.

(7) An airman while operating or taking part in the operation of an aircraft engaged principally in commercial flying constituting an act of interstate or foreign commerce. Airman operating in interstate or foreign commerce.

Section 10. **Exhibition of Licenses and Certificates.**

The federal license, certificate, or permit, and the evidence of registration in this or another state, if any, required for an airman shall be kept in the personal possession of the airman when he is operating within this state and must be presented for inspection upon the demand of any Exhibition of licenses and certificates.

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passenger, or any peace officer of this state, any authorized member, official, or employee of the commission, or any official, manager or person in charge of any airport in this state upon which he shall land, or upon the reasonable request of any other person. The federal aircraft license, certificate or permit, and the evidence of registration in this or another state, if any, required for aircraft must be carried in every aircraft operating in this state at all times and must be conspicuously posted therein where it may readily be seen by passengers or inspectors and must be presented for inspection upon demand of any passenger, any peace officer of this state, any member, authorized official, or employee of the commission, or any official, manager, or person in charge of any airport in this state upon which it shall land, or upon the reasonable request of any person.

Section 11. **Air Instruction Without License or Certificate Unlawful.**

Air instruction without license or certificate unlawful.

It shall be unlawful for any person to operate an air school or to give instructions in flying or ground subjects in this state unless such person, if an air school or aeronautics instructor in ground subjects, is the holder of an annual license issued by the commission, or if an aeronautics instructor in flying subjects has an appropriate effective license certificate or permit issued by the United States government authorizing him to engage in the particular class of flight instruction in which he is engaged, which has been registered with the commission and such registration with the commission is in full force and effect.

Section 12. **Licensing of Airports and Other Air Navigation Facilities.**

Licensing of airports and other air navigation facilities.

All proposed airports, restricted landing areas, and other air navigation shall be first licensed by the commission before they, or any of them, shall be used or operated. Any municipality or person acquiring property for the purpose of constructing or establishing an airport or restricted landing area shall, prior to such acquisition, make application to the commission for a certificate of approval of the site selected and the general purpose or purposes for which the property is to be acquired, to insure that the property and its use shall conform to minimum standards of safety and shall serve public interest. It shall be unlawful for any municipality or officer or employee thereof, or for any

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person, to operate an airport, restricted landing area, or other air navigation facility for which an annual license has not been issued by the commission.

Section 13. **Hearings on Applications for Certificates and Licenses.**

Hearings on applications for certificates and licenses.

Whenever the commission makes an order granting or denying a certificate of approval of an airport or a restricted landing area, or an original license to use or operate an airport, restricted landing area or other air navigation facility, and the applicant or any interested municipality, within 15 days after notice of such order has been sent the applicant by registered mail, demands a public hearing, or whenever the commission desires to hold a public hearing before making such order, such a public hearing in relation thereto shall be held in the municipality applying for the certificate of approval or license, or in case the application was made by anyone other than a municipality, at the county seat of the county in which the proposed airport, restricted landing area or other air navigation facility is proposed to be situated, at which hearing parties in interest and other persons shall have an opportunity to be heard. Notice of the hearing shall be published by the commission in a legal newspaper of general circulation in the county in which the hearing is to be held, at least twice, the first publication to be at least 15 days prior to the date of hearing. After a proper and timely demand has been made the order shall be stayed until after the hearing, when the commission may affirm, modify or reverse it, or make a new order. If no hearing is demanded as herein provided, the order shall become effective upon the expiration of the time permitted for making a demand. Where a certificate of approval of an airport or restricted landing area has been issued by the commission, it may grant a license for operation and use, and no hearing may be demanded thereon.

Section 14. **Standards for Issuing Certificates of Approval and Licenses.**

Standards for issuing certificates of approval and licenses.

In determining whether it shall issue a certificate of approval or license for the use or operation of any proposed airport or restricted landing area, the commission shall take into consideration its proposed location, size and layout, the relationship of the proposed airport or restricted landing area to a comprehensive plan for state-wide and

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nation-wide development, whether there are safe areas available for expansion purposes, whether the adjoining area is free from obstructions based on a proper glide ration, the nature of the terrain, the nature of the uses to which the proposed airport or restricted landing area will be put, and the possibilities for future development.

Section 15. **Exceptions—Personal Use.**

Exception as to landing areas for personal use.

The provisions of sections 12, 13, and 14 shall not apply to restricted landing areas designed for personal use.

Section 16. **Revocation of Certificate of Approval and Licenses.**

Revocation of certificate of approval and license.

The commission is empowered to temporarily or permanently revoke any certificate of approval or license issued by it when it shall determine that an airport, restricted landing area, or other navigation facilities are not being maintained or used in accordance with the provisions of this act and the rules and regulations lawfully promulgated pursuant thereto.

Section 17. **Exceptions—Federal Government.**

Exceptions relative to federal government.

The provisions of sections 12 to 15, both inclusive, shall not apply to any airport, restricted landing area or other air navigation facility owned or operated by the federal government within this state.

Section 18. **Orders of Commission.**

Orders made by commission.

In any case where the commission refuses to issue a certificate of approval of or license (or renewal of license) for an airport, restricted landing area or other air navigation facility, or refuses to permit the registration of any license, certificate or permit, or refuses to grant a license to an air school or to an aeronautics instructor in ground subjects, or in any case where it shall issue any order requiring certain things to be done, or revoking any license or certificate, it shall set forth its reasons therefor and shall state the requirements to be met before such approval will be given, registration permitted, license granted or order modified or changed. Any order made by the commission pursuant to the provisions of this act shall be served upon the interested persons by registered mail or in person. To carry out the provisions of this act the commission, any member thereof, or any officer or employee of the commission, and any offi-

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cers, state or municipal, charged with the duty of enforcing this act may inspect and examine at reasonable hours any premises, and the buildings and other structures thereon, where airports, restricted landing areas, air schools, flying clubs or other air navigation facilities or aeronautical activities are operated or carried on.

Right to court review.

(a) Any person aggrieved by an order of the commission, or by the granting or denial of any license, certificate or registration may have the action of the commission reviewed by a court of record of this state in the following manner:

Appeal from adverse order to district court.

Any person against whom an order has been entered by the state aeronautics commission may, within ten days after the service thereof, appeal from such order to the district court of the county in which such person resides or the county in which any property affected by the order is located. Such appeal shall be taken by filing with the clerk of the district court to which such appeal is taken a notice of appeal which shall state the substance of the order appealed from the date thereof and that such person appeals to said court from the same, and by serving a copy of said notice of appeal upon either the chairman or vice-chairman and secretary of the commission. The order of filing and service is immaterial. Said appeal shall be set down for hearing in not less than ten days nor more than thirty days after the filing of said notice of appeal unless the judge shall, for sufficient cause resulting from press of business or other reason, be unable to hear said appeal within said time. In that event, said hearing may be deferred until the same can be heard by the court. Said appeal may be heard without formal pleadings.

TITLE IV—STATE AIRPORTS

Section 19. **Acquisition and Operation of State Airports.**

Acquisition and operation of state airports.

(a) Authority to establish state airports—The commission is authorized and empowered, on behalf of and in the name of this state, within the limitation of available appropriations, to acquire by purchase, gift, devise, lease, condemnation proceedings, or otherwise, property real or personal, for the purpose of establishing and constructing airports, restricted landing areas, and other air navigation facilities,

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and to acquire in like manner, own, control, establish, construct, enlarge, improve, maintain, equip, operate, regulate, and police such airports, restricted landing areas, and other air navigation facilities either within or without this state; to make, prior to any such acquisition, investigations, surveys, and plans; to erect, install, construct, and maintain at such airports facilities for the servicing of aircraft and for the comfort and accommodation of air travelers, and to dispose of any such property, airport, restricted landing area, or any other air navigation facility, by sale, lease, or otherwise, in accordance with the laws of this state governing the disposition of other like property of the state. It may not, however, acquire, or take over any airport, restricted landing area or other air navigation facility owned or controlled by a municipality of this state without the consent of such municipality. It may erect, equip, operate, and maintain on any airport buildings and equipment necessary and proper to establish, maintain, and conduct such airport and air navigation facilities connected therewith.

Airport protective privileges.

(b) Airport protective privileges—Where necessary, in order to provide unobstructed air space for the landing and taking off of aircraft utilizing airports and restricted landing areas acquired or operated under the provisions of this act, it is hereby granted authority to acquire, in the same manner as is provided for the acquisition of property for airport purposes, easements through or other interests in air space over land or water, interests in airport hazards outside the boundaries of the airports or restricted landing areas, and such other airport protection privileges as are necessary to insure safe approaches to the landing areas of said airports and restricted landing areas, and the safe and efficient operation thereof. It is also hereby authorized to acquire, in the same manner, the right or easement, for a term of years or perpetually, to place or maintain suitable marks for the daytime marking and suitable lights for the nighttime marking of airport hazards, including the right of ingress and egress to or from such airport hazards for the purpose of maintaining and repairing such lights and marks. This authority shall not be construed as to limit the right, power, or authority of the state or any municipality to zone property adjacent to any airport or restricted landing area pursuant to any law of this state.

(c) Joint operations—It may engage in all such ac-

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tivities jointly with the United States, other states, and with municipalities or other agencies of this state. Joint operations.

(d) Condemnation—It may exercise the right of eminent domain, in the name of the state, in the manner provided by the laws of this state for the acquisition of real property for public purposes, for the purpose of acquiring any property which it is herein authorized to acquire. The acquisition of such property for any of said purposes is hereby declared to be a public use. Right of condemnation may be exercised.

(e) Leases and sales—It may lease for a term not exceeding ten years, airports, or other air navigation facilities or real property acquired or set apart for airport purposes, to private parties, any municipal or state government or the national government, or any department of either thereof, for operation; and may lease or assign for a term not exceeding ten years to private parties, any municipal or state government or the national government, or any department of either for operation or use consistent with the purposes of this act, space, area, improvements, or equipment on such airports; may sell any part of such airports, other air navigation facilities or real property to any municipal or state government, or to the United States or any department or instrumentality thereof, for aeronautical purposes or purposes incidental thereto; and may confer the privilege of concessions of supplying upon the airports goods, commodities, things, services and facilities; provided that in each case in so doing the public is not deprived of its rightful, equal and uniform use thereof. Leases and sales of airports, other air navigation facilities.

(f) Charges and rentals—It shall have the authority to determine the charges or rental for the use of any state airports and the charges for any service or accommodations, under its control and the terms and conditions under which such properties may be used; provided that in all cases the public is not deprived of its rightful, equal, and uniform use of such property. Charges shall be reasonable and uniform for the same class of service and established with due regard to the property and improvements used and the expenses of operation to the state. The state shall have and the commission may enforce agisters' liens, as provided by law for repairs to or improvement or storage or care of any personal property, to enforce the payment of any such charges. Charges and rentals.

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TITLE V—MISCELLANEOUS

Section 20. **State Aviation Fund.**

State aviation fund created.

Creation of state aviation fund—All costs and expenses of administering this act, including the salaries of employees and assistants provided for in section 6 hereof, the expenses of members of the commission, and all other disbursements necessary to carry out the purposes of this act, shall be paid out of the state aviation fund hereby created.

Composition of fund.

The state aviation fund shall be made up of the following revenues to-wit: All gifts and all legislative appropriations for said fund; all moneys received from any branch or department of the federal government, or from other sources, for the purposes mentioned in this act or for the furtherance of aeronautics generally in this state.

Part of license tax on gasoline purchased for aircraft.

There shall also be paid into said fund the proceeds of one cent per gallon out of each five cents per gallon of gasoline license tax now imposed by the laws of Montana upon purchases of gasoline used for the operation of aircraft.

Exception to Sec. 2381.22, R. C. 1945, as amended.

The revenue from said one cent per gallon of said tax shall no longer be placed in either the state highway fund or the gasoline license drawback fund as now required by Sec. 2381.22, R. C. M. 1935 as amended, but the same shall, when received by the state treasurer, be placed in the state aviation fund.

Exception to Sec. 2396.4, R. C. 1935, as amended.

No part of said one cent per gallon of gasoline license tax imposed by the laws of Montana on gasoline purchased and used for the operation of aeroplanes or aircraft, shall be subject to refund under the provisions of Sec. 2396.4, R. C. M. 1935 as amended, it being the intent of this section to reduce from five cents to four cents per gallon the amount of gasoline license tax which may be refunded on purchases of gasoline used in the operation of aircraft, and to leave otherwise unchanged the provisions of said section 2396.4.

Section 21. **Aeronautics Functions Governmental—No Liability for Torts.**

The acquisition of any lands for the purpose of establishing airports or other air navigation facilities; the acquisition of any airport protection privileges; the acquisition,

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establishment, construction, enlargement, improvement, maintenance, equipment and operation of airports and other air navigation facilities whether by the state separately or jointly with any municipality or municipalities thereof; the assistance of this state in any such acquisition, establishment, construction, enlargement, improvement, maintenance, equipment, and operation; and the exercise of any other powers herein granted to the commission are hereby declared to be public and governmental functions, exercised for a public purpose, and matters of public necessity, and such lands and other property and privileges acquired and used by the state in the manner and for the purposes enumerated in this act shall and are hereby declared to be acquired and used for public and governmental purposes and as a matter of public necessity.

Aeronautics functions declared to be governmental.

No action or suit sounding in tort shall be brought or maintained against the state or any municipality thereof, or the officers, agents, servants, or employees of the state or any municipality thereof, on account of any act done in or about the construction, maintenance, enlargement, operation, superintendence or management of any airport or other air navigation facility.

Tort actions against state or municipality relating airport permitted.

Section 22. **Penalties.**

Any person violating any of the provisions of this act, or any of the rules, regulations or orders issued pursuant thereto, shall be guilty of a misdemeanor and punishable by a fine of not more than $500.00 or by imprisonment in a county jail for not more than 90 days or both.

Penalties.

Section 23. **Separability.**

If any provision of this act or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or application of this act which can be given effect without the invalid provisions or application, and to this end the provisions of this act are declared to be severable.

Separability.

Section 24. **Repeal.**

All acts and parts of acts in conflict herewith are hereby repealed. In case of any conflict or duplication of authority between the provisions of this act and any other law of the State of Montana, pertaining to the regulation, licensing

Repealing clause.

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or supervision of carriers of freight or passengers by air the provisions of this act shall control, it being the intent of this act to vest in the state aeronautics commission hereby created, the sole authority to regulate, license and control the aviation industry and all carriage by air.

Section 25. **Date Effective.**

Effective date. This act shall take effect upon its passage and approval.

Approved March 1, 1945.

CHAPTER 153

An Act Relating to the Transaction of Business in This State by Benevolent Associations As Defined in This Act, Establishing the Supervision and Authority of the Insurance Commissioner Over the Business and Activities of the Said Benevolent Associations, Permitting and Authorizing Benevolent Associations to Transact Business Under This Act, Prescribing Procedures for Obtaining Certificates of Authority to Do Business Under This Act, Permitting and Providing for Officers and Agents of Benevolent Associations, Providing for Foreign Benevolent Associations, Providing for Judicial Review of Acts of the Insurance Commissioner Under This Act, Prescribing the Effect of This Act On Existing Laws, and Prescribing Certain Exemptions.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Purpose.** The purposes of this act are:

Purposes of act. (1) To establish and maintain the supervision and authority of the insurance commissioner over the business and activities of those associations hereinafter described, commonly known as "benevolent associations".

(2) To prohibit unbridled and unregulated activities of the said associations for the better protection of the members and beneficiaries of the said associations, and the public.

(3) To permit and authorize the said associations upon compliance with the provisions of this act to operate their business in the State of Montana under the jurisdiction of the insurance commissioner.

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(4) To extend the jurisdiction of the insurance commissioner to the officers and agents of the said associations.

Section 2. **Definition of Terms.** "Benevolent associations." Any corporation, association, or society, or by whatever name called, which issues any certificate, policy, membership agreement, or makes any promise or agreement with its members, whereby, upon decease of a member, any money or other benefit, charity, aid, or relief is to be paid, provided or rendered by such corporation, association, or society to his legal representatives, or to the beneficiary designated by him, which money, benefit, charity, aid or relief is derived from voluntary donations, or from admission fees, dues, or assessments, or any of them collected or to be collected from the members thereof, or members of a class therein, or interest or accretions thereon, or accumulations thereof; and wherein the money or other benefit, charity, aid or relief, so realized, is applied to or accumulated for the uses and purposes herein specified, and/or the uses of such corporation, association or society, and/or the expenses of management and prosecution of its business, shall be deemed to be a "benevolent association" for the purposes of this act.

Definitions of terms.

"Benevolent associations."

"Member." For the purposes of this act, a "member" or "member in good standing" shall be taken to be the person who must contribute upon notice of assessment. There shall be one contributing member for each membership contract, but a membership contract may cover more than one person.

"Member."

"Commissioner" or "commissioner of insurance", for the purposes of this act, shall mean the state auditor and ex officio insurance commissioner of the State of Montana.

"Commissioner of insurance."

"Membership contract" shall mean any certificate, policy, membership agreement, or by whatever name called, or any promise of agreement of the benevolent association with any or all of its members, whereby any money or other benefit, charity, aid, or relief is to be paid, provided, or rendered by such benevolent association upon the decease of a member to his legal representatives, or to the beneficiary or beneficiaries designated by him.

"Membership contract."

"Officer" as used in this act shall be taken to mean any of those persons having supervision and control of the benevolent association, and who engage in the management and the prosecution of the business thereof, whether they

"Officer."

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are designated as officers, trustees, comptrollers, managers, or by whatever name called.

Section 3. **Procedure for Obtaining Certificate of Authority.**

Procedure for obtaining certificate of authority.

(a) Each benevolent association now existing or hereafter existing shall first procure a certificate of authority to transact such business by filing a written application with the insurance commissioner on a form to be provided by the commissioner. Such application shall show that the benevolent association has two hundred (200) or more applications for membership contracts; or in the case of benevolent associations now existing, such application shall show that the benevolent association has two hundred (200) members in good standing. In each case a list of the names and addresses of the members or applicants shall accompany each application for license to do business under this act. The application shall also contain the name and business address of the benevolent association and the names and addresses of the officers of such benevolent association, not exceeding five (5) in number; the total number of applicants or members of the association, and the number and totals of the sub-groups or classes, if any, of the membership of the benevolent association. The application for license shall also be accompanied by a financial statement in the case of a benevolent association already existing. There shall also be presented at the same time as the application, forms of membership contracts now in use, or to be used, a certified copy of the articles of incorporation, if incorporated, and its by-laws, and, if not incorporated, its articles of association or articles of agreement, and its rules and agreements with members.

Application—contents of.

Commissioner may examine books of applicant.

(b) The commissioner shall have the power to enter the office and examine the books, papers, documents, and any and all matters pertinent to the application presented by such benevolent association.

Certificate of authority.

(c) Upon determination by the commissioner that the requirements of this act are complied with, certificate of authority shall be issued to the benevolent association by the commissioner, to transact such business as in this act herein provided. Each such certificate so issued shall expire on the thirty-first day of March of each year. For each such certificate so issued, and for each renewal thereof, the commissioner shall charge a fee of twenty-five dollars ($25.00).

Fee.

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Section 4. **Power of Commissioner in Regard to Certificate of Authority.**

Power of commissioner.

(a) The commissioner shall have the power to refuse to issue a certificate of authority to a benevolent association, if such benevolent association has failed to meet the requirements herein provided.

Revocation or suspension of certificate—hearing required.

(b) The commissioner shall have the power to suspend or revoke a certificate of authority of a benevolent association, or to refuse to renew a certificate of authority to a benevolent association. Before revoking or suspending or refusing to renew such license, he shall set a hearing at which the benevolent association may attend and show cause why such action shall not be taken. The benevolent association shall be given notice by registered mail, prepaid, thirty (30) days in advance of such hearing. At the expiration of the thirty (30) days, if the benevolent association does not appear, or upon hearing duly had, the commissioner may enter his order suspending or revoking or refusing to renew such license.

Unlicensed corporation, association or society forbidden to do business.

(c) Every corporation, association, society, or by whatever name called, which shall engage in the business of a benevolent association, must operate under a *certificate of authority* under this act, and any person or persons, agents, trustees, managers, comptrollers, officers, or by whatever name called, shall cause to be issued or procured, received, or forwarded, any membership contract, or shall collect any dues, assessments, contributions, or by whatever name called in the name of such unlicensed benevolent association shall upon conviction be deemed guilty of felony.

Section 5. **Power of Attorney to Accept Process.**

Commissioner must be appointed attorney to accept service of process against association.

(a) At the time of making application for license under this act, each benevolent association shall appoint, in writing, the commissioner of insurance and his successors in office to be its true and lawful attorney, upon whom true and legal process may be served in any action or proceeding against it, and in such writing shall agree that any lawful process against it which is served upon such attorney shall be of the same legal force and validity as if served upon such association, and that the authority shall continue in force so long as any liability remains outstanding in the state.

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Certified copies of appointment as evidence.

Copies of such appointment, certified by said commissioner of insurance shall be deemed sufficient evidence thereof, and shall be admitted in evidence with the same force and effect as if the original thereof were admitted. Such service must be made upon the commissioner of insurance, or in his absence, upon the person in charge of his office, by delivering to him two (2) copies of the summons and complaint, or other service, and shall be deemed sufficient service upon such association; provided, that in all cases where service is made upon the commissioner of insurance, as herein provided, the defendant shall have twenty (20) days from the date of such service in which to file its answer or other appearance in the case. When legal process against any such benevolent association is served upon said commissioner, he shall forthwith forward by registered mail one (1) copy of the summons and complaint, or other service, postage prepaid, and directed to such association, at the last known address of such association. For each copy of process the commissioner shall collect one dollar ($1.00), which shall be paid by the plaintiff at the time of service, the same to be recovered by him as part of the taxable costs, if he prevails in the suit.

Service of process—manner of.

Time for filing answer or apperance.

Fee.

Other service of process allowed.

(b) Nothing herein contained shall be deemed to prevent a plaintiff in any action against a benevolent association, authorized by this act to do business in this state, from proceeding in service of process in the usual manner as provided by law.

Doing business in state deemed equivalent to appointment of attorney.

(c) The sale by any benevolent association, whether qualified to do business within the State of Montana under this act, or not, of any certificate, policy, or membership agreement, whereby said association promises upon the decease of a member to pay any money or other benefit, shall be deemed equivalent to an apppointment by such association of the commissioner of insurance, or his successors in office, to be its true and lawful attorney, upon whom may be served all lawful process in any action or proceeding against said association growing out of the sale of such certificate, policy, or membership agreement.

Section 6. **Assessment Notification Procedure.**

Death notice and assessment procedure.

Death notice must be mailed to each member in good standing within *thirty (30)* days of receipt of proof of death of a member, stating the expiration date of assessment

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payment, and giving the name, date, and place of death of the deceased member. Each death claim shall be assigned a number, which numbers shall be consecutive for each calendar year, and each assessment notice shall show the death number to which it applies. Each assessment notice shall show the number of members in good standing to whom such notices are being sent, which number shall be computed from the last completed assessment. One such assessment notice shall be sent to the office of the commissioner for filing at the time of each mailing, which notice shall be duplicate in form and information to the notice being sent to the members in good standing. Payment in full on final settlement of death benefits shall be paid by the benevolent association to the legal heir or heirs, or the designated beneficiary or beneficiaries, within twenty (20) days after the expiration date stated on such assessment notice sent to the members in good standing.

Section 7. **Annual Statement.**

Annual statement of condition to be filed.

(a) It shall be the duty of the officers of each benevolent association incorporated under the laws of this state, or if not incorporated, doing business in this state, and transacting business under this act, annually, on the first day of January, or within sixty (60) days thereafter, to prepare under oath and deposit in the office of the commissioner a full, true and complete statement of the condition of the company on the thirty-first day of December preceeding the filing of such statement, which shall exhibit the following items and facts:

Contents of.

(1) The name and business address of the benevolent association.

(2) The names and addresses of the officers of the benevolent association.

Number of memberships.

(3) The number of membership contracts in force at the start of the year; number of memberships in good standing at the close of the year for which the statement is made. This information must be made as to each sub-group or class, if any.

Death losses.

(4) The number of death losses claimed; the number and total amount of death losses paid; the number of death claims compromised, *denied* or resisted, and why.

(5) The number of assessments in the association or in

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Number of assessments and amount collected.

each sub-group or class, if any; the amount collected in each such assessment; income to the benevolent association from all other sources, and all other fees, assessments, donations, of any kind or nature, except new membership fees from new members.

Expenses and debts.

(6) The expenses actually incurred during the year; debts unpaid at the start of the year; debts and obligations of any kind (not including death losses actually paid) paid during the year; debts unpaid at the close of the year; a breakdown of expenses to show the amount paid in salaries or commissions, office expense, and other expenses, in those cases where members of a benevolent association are assessed for operating expenses of such association.

Expenses, limitation of.

(b) The expenses in total amount of each benevolent association shall be limited to ten per centum (10%) of the total amount collected during the year whether assessments, dues, donations, or by whatever name called, except fees collected for new memberships, provided that a minimum amount of fifteen dollars ($15.00) per death loss may be charged for expenses; provided, further, that all expenses of any kind or nature must be within the limits herein described.

Assessment for expenses may be made.

A benevolent association may, instead of paying expenses as provided in the preceding paragraph, assess each of its members a sum not to exceed three dollars ($3.00) per year, the receipts of which shall be placed in an expense fund, out of which all expenses of the association of any kind or nature shall be paid. The condition of this fund, if this method is chosen, shall be shown in the annual statement.

Membership fee.

The initial membership fee for new members shall in no event exceed five dollars ($5.00).

Statement of method to be pursued for charging expenses.

The benevolent association must state in its annual statement whether the expenses for the coming year will be charged on a percentage basis of income as herein provided, or whether the members of the association will be assessed for the same. No association shall use both methods, nor a combination of either.

Receipt for payment required.

(c) Each benevolent association shall comply with all the provisions of section 6 of this act, and the officers making up the annual statement shall state therein whether this has been done. The benevolent association shall issue a re-

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ceipt or other evidence of payment to the person making a payment of any kind to the benevolent association.

Attestation of annual statement.

(d) Two (2) officers of the benevolent association shall attest under oath to the truth of the facts contained in the annual statement. At least one (1) of such officers must have charge of making up the statement.

Filing of statement.

(e) The annual statement must be filed in the office of the commissioner as hereinbefore provided; a copy thereof certified by the commissioner must be filed by the benevolent association in the office of the county clerk in which the business office of the association is located before the first day of April of each year.

Power of commissioner.

(f) The commissioner shall have the power to enter and make an examination of the benevolent association to determine the truth of the facts exhibited in the statement, and he shall have the power to require such other information as he may require in the performance of his duties under this act, and to make such rulings as he shall deem necessary.

Section 8. **Officers and Agents.**

Officers.

(a) Each benevolent association operating under this act shall be in the charge of its officers. The treasurer and any other officer having charge of any funds of the benevolent association shall each be bonded in the amount of one thousand dollars ($1,000.00) *executed to the State of Montana, joint and several, for the use and benefit of the members or beneficiaries of the benevolent association.* There shall be no more than five (5) officers in each benevolent association.

Bond required of treasurer.

Filing of bond.

Each such bond must be on file at the business address of the benevolent association, and a certified copy thereof must be filed with the commissioner.

Agents.

(b) Agents for the benevolent association may be appointed in accordance with Section 6118, of the Revised Codes of Montana of 1935, who shall be subject to all the laws enacted in regard to agents so appointed; provided that no such agent may be appointed unless there are at least three officers as provided in the preceding paragraph, and provided further that the officers of the benevolent association, not exceeding five (5), shall act for the benevolent association without obtaining a license as an agent.

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Such officers shall be subject to the jurisdiction of the commissioner in the same manner as though they were licensed under Section 6118, of the Revised Codes of Montana of 1935.

Affidavit to be filed by officers and agents.

(c) Before a certificate of authority may be issued to any benevolent association, the officers thereof must file with the commissioner, and each agent upon application for license must also file, the following affidavit to wit: "To the commissioner of insurance of the State of Montana: I....., being first duly sworn, do depose and say: '(1) That I will not violate any of the insurance laws of the State of Montana, or the provisions of this act. (2) That I will not misrepresent any of the terms or conditions of any policy of life insurance or annuity, or of any benevolent association membership contract, or the financial responsibility or business practices of any life insurance company or benevolent association authorized to transact business in this state. (3) I will not, upon the basis of any incomplete comparison or misrepresentation, advise or persuade, or attempt to persuade any person to drop or discontinue any insurance that he may have with any company or association during the term of such insurance or otherwise'." This form shall be furnished by the commissioner, and such statement shall be sworn to and subscribed before a person authorized to administer such oath.

Contracts, forms to be approved by commissioner.

Section 9. **Approval of Contract Forms.** All forms of membership contracts, policies, agreements or by whatever name called, shall be submitted to the commissioner for approval, and such forms shall not be used, sold, or in any manner promulgated by the benevolent association, its officers, or agents, unless such approval shall first be obtained,

Exception.

provided that this section shall not apply to any membership contracts in full force and effect prior to the effective date of this act.

Foreign corporation, requirements for transaction of business in state.

Section 10. **Foreign Corporations.** No such corporation, association, or society organized under the laws of any other state or territory of the United States or the District of Columbia, shall transact business herein until it has received a certificate of authority from the commissioner. Before said certificate is issued, such corporation, association or society shall first designate a person who is a resident of Montana to represent it in this state. Such person

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shall be bonded as provided for officers of domestic benevolent associations under this act. Such foreign benevolent associations shall also designate a county in this state, wherein its business office shall be located. The commissioner shall annually issue to such benevolent association renewal certificates of authority to continue its business, if its annual report is satisfactory to him, and its certificate shall be filed in the office of the county clerk of the county in which its business office is designated within sixty (60) days after filing its annual report as in this act provided, and no such benevolent association shall be authorized to continue its business in this state, unless such certificate shall be so received and filed. The commissioner shall refuse a certificate or renewal whenever in his judgment such refusal will best promote the public interests, or when, by the laws of the state or territory under which the same is organized, a benevolent association organized under the laws of the State of Montana, including this act, is prohibited. Such benevolent association receiving a certificate of authority under this act shall be bound by all the applicable provisions of this act.

Certificate of authority.

Section 11. **Judicial Review.** Any benevolent association, or any officer or agent of any such benevolent association who shall be aggrieved by any act, ruling, or order of the commissioner under the provisions of this act may apply to any court of competent jurisdiction for a judicial review or suitable action in regard to the said act, ruling, or order, provided that such action is commenced within thirty (30) days after the rendition of the act, ruling or order. Said court may in all cases fix the conditions under which a stay of order or action will be granted.

Judicial review of action by commissioner.

Section 12. **Companies Exempt.** This act does not include any fraternal benefit society, assessment life insurance company, or association, or any other insurance corporation, association, or society, which receives or is eligible to receive a certificate of authority in this state, and is within the jurisdiction of the commissioner under any other provisions of the laws of this state. The provisions of this act further shall not apply to burial or death benefits, annuities, endowments or any other benefit payments of labor unions, railroad brotherhoods and lodges, which groups have as a primary business the improvement of working conditions or of the ladies auxiliaries to any of these; nor shall this act apply to the benevolent plans within fraternal

Act does not apply to certain societies, companies and associations.

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orders, where the plan is limited to members, and where the benevolent plan is not the principal object for the formation or continuance of the fraternal order.

Severability.

Section 13. **Saving Clause.** If any section, subsection, sentence, or clause of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this act, but such remaining portion shall remain in full force and effect.

Repealing clause.

Section 14. **Repealing Clause.** All acts or parts of acts insofar as they are in conflict with the provisions of this act are hereby repealed.

Approved March 1, 1945.

CHAPTER 154

An Act Creating a Committee of Nine (9) Members for the Purpose of Studying and Making Recommendations Relative to the Public Elementary and Secondary School System of the State of Montana, Providing for the Membership of Said Committee and Providing for the Filing of a Report.

Be it enacted by the Legislative Assembly of the State of Montana:

Committee to be appointed to make a study of public school systems of state.

Section 1. That a committee be appointed for the purpose of making a study of the public elementary and secondary school systems of Montana, said committee to be composed of nine (9) members, to be appointed by the governor. Said committee shall make a careful study of the conditions existing in all classes of school districts in the state, pertaining to the problems as to standards *and courses of study* of said schools, financing, maintenance, transportation and supervision. Said committee shall also make a study of the distribution of all school monies as to distribution among the public elementary schools of the state.

Appointment of, and from what organizations.

Section 2. Said committee to be appointed by the governor of the State of Montana in the following manner: One (1) each from the following organizations: Montana senate, house of representatives, school boards association, a farmers' organization, a labor organization, a *taxpayers' organization,* state school administrators association, Montana education association and state superintendent of public instruction.

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Section 3. Said committee shall make report and recommendations to the governor not later than November 15, 1946, and copies shall be sent to all members of the thirtieth legislative assembly. Report and recommendations by committee.

Section 4. This act shall be in full force and effect from and after its passage and approval. Effective date.

Approved March 1, 1945.

CHAPTER 155

An Act to Amend Section 1789, Revised Codes of Montana, 1935, Relating to the Employment of Office and Field Men by the Highway Commission; Providing for Occasional Assignment of Engineers and Field Men to Work On County Roads, and Providing for the Adjustment of the Costs Thereof.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 1789 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows: Sec. 1789, R. C. 1935, revised.

"Section 1789. **Office and Field** *Men.* The highway commission shall employ office and field *men* as it shall deem necessary and the compensation for all such employees shall be determined by the state highway commission to be paid out of the state highway fund in the same manner as other state employees are paid. Office and field men.

At the discretion of the state highway commission, engineers and other persons in their employ may be temporarily assigned for service to any county when a request has been made by the county commissioners thereof. The expense of this service to the counties shall be paid to the state highway fund by the counties receiving such service." Assignment of employees for service in any county. Expense.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved March 1, 1945.

CHAPTER 156

An Act Concerning Contracts for Purchase by the State of Montana, Political Subdivisions of the State of Montana

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From the Federal Government of Any New, Unused or Rebuilt Equipment, Supplies *and* Materials; Providing for the Suspension of Certain Rules Relating to Purchases by the State of Montana, Political Subdivisions of the State of Montana; Limiting the Time of This Act and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Purchase of equipment from the United States by state or political subdivision authorized.

Section 1. The State of Montana, any county, city or town, school district or other political subdivision of the State of Montana may enter into any contract with the United States of America or any federal agency for the purchase, lease or other acquisition of any new, unused or rebuilt equipment, supplies *and* materials without regard to any provisions of law relating to the methods of purchase by such county, city or town, school district or other political subdivision.

Office holder or employee may be designated to act for state or political subdivision.

Section 2. The State of Montana, any county, city or town, school district or other political subdivision of the State of Montana may designate by appropriate resolution or order any office holder or employee of its own to enter a bid or bids in its behalf for any sale of any new, unused or rebuilt equipment, supplies *and* materials owned by the United States of America or any agency thereof and may authorize said person to make any down payment or payment in full required in connection with such bidding.

Effective date limited.

Section 3. The provisions of this act shall be effective until March 1, 1947.

Repealing clause.

Section 4. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 5. This act shall be in full force and effect from and after its passage and approval.

Approved March 1, 1945.

CHAPTER 157

An Act to Provide for the Assessment, Levy and Collection of Taxes On All Personal Property Brought, Driven or Coming Into This State After the Regular Annual Assessment Date of Such Property; Providing the Procedure

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Therefor; Requiring Owners or Agents to Give Notice of Intention to Drive or Bring Livestock Into This State or to Move Such Property from One County to Another and Providing for the Division and Proration of Taxes in Certain Instances.

Be it enacted by the Legislative Assembly of the State of Montana:

Personal property brought into state and remaining thirty days to be assessed for taxes.

Section 1. Any personal property, including livestock, brought, driven or coming into this state at any time during the year and which shall remain in the state for a period not less than thirty (30) days, shall be subject to taxation and shall be assessed for all taxes, levied or leviable for that year in the county in which the same shall thus be and remain, in the same manner and to the same extent, except as hereinafter otherwise provided, as though such property had been in the county on the regular assessment date; provided that such property has not been regularly assessed for the year in some other county of the state, and provided further that nothing herein contained shall be construed into authority to assess or levy an additional tax against any merchant or dealer within this state on goods, wares or merchandise brought into the county to replenish the stock of such merchant or dealer, so long as such addition does not materially increase the inventory or stock which has been duly assessed to such merchant or dealer as of the regular assessment date.

Exception relating to goods to replenish stock of merchant.

Application of R. C. 1935 relating to assessment of personal property.

Section 2. The provisions of the Revised Codes of Montana, 1935, and all amendments heretofore made thereto, relating to the listing of personal property for assessment and the assessment thereof for taxation, shall apply to all such personal property brought, driven or coming into this state after the regular annual assessment date as fully as though said property had been in the state on such assessment date, as of the date such property comes to rest and becomes a part of the general property within any county of this state.

Application of Sections 2238 to 2251, R. C. 1935.

Section 3. All property mentioned in the preceding section shall be assessed at the same value as property of like kind and character and in the assessment, levy and collection of the tax shall be governed by the provisions of Sections 2238 to 2251, inclusive, of the Revised Codes of Montana, 1935, as the same exist or are amended.

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Amount of tax as depending upon date property is brought into state.

Section 4. If such personal property is brought or driven or comes into any county before July 1st the tax shall be the full amount of the tax computed as provided above, but if brought, driven or coming into the county after July 1st the tax shall be prorated according to the ratio which the number of months remaining in said calendar year bear to the total number of months in said year. If said property is brought into the state after the fifteenth day of any month, such month shall be excluded in computing the number of months on which the tax is based.

Duty of owner of livestock brought in to inform county assessor.

Section 5. The owner or the agent, manager or foreman of any person, corporation or association bringing livestock into this state after the first Monday in March shall immediately after said livestock crosses the state line, forward to the assessor of the county into which said livestock is moved, a registered letter, which letter shall inform said assessor of the name of the owner of such livestock, of the number thereof, the brand thereon, and the ages of the same, together with the time and place at which said livestock was brought across the state line.

Duty of assessor to inspect and assess livestock brought in.

Section 6. The county assessor upon the receipt of such letter or other information, that livestock has been brought into his county from outside of the state, after the first Monday in March in any year, shall immediately, personally, or by deputy, inspect said livestock for the purpose of taxation and proceed under the provisions of Section 2238, Revised Codes of Montana, 1935, as amended by Chapter 136, Laws of 1943.

Removal of livestock from one county to another, duty of owner and the county assessor.

Section 7. If any owner of livestock driven into the state as hereinbefore provided intends to move said livestock from the county of entry to another county of this state for grazing purposes, he shall file with the county assessor in the initial county a notice to that effect, giving the number and kind of livestock and the brand thereon, and the time he intends to graze such livestock in the second county, and the county assessor shall prorate the tax on such livestock in conformity with the provisions of Sections 2069 to 2074, inclusive, of the Revised Codes of Montana, 1935.

Approved March 2, 1945.

CHAPTER 158

An Act to Amend Section 835 Revised Codes of Montana

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1935 Relating to Meetings of the State Board of Education by Providing Per Diem and Expenses of Members of Said Board, and Providing Payment of Such Per Diem and Expenses and Salary and Expenses of Executive Head of University of Montana; to Amend Section 836 Revised Codes of Montana 1935 Relating to the Powers and Duties of the State Board of Education, and Providing for the Appointment of An Executive Head of the University of Montana and Fixing of Salary, Term and General Powers and Duties of Such Executive Head; to Amend Section 841 Revised Codes of Montana 1935 Relating to the General Supervision and Control of the Various State Educational Institutions; to Amend Section 842 Revised Codes of Montana 1935 Relating to Local Executive Boards of the Various State Educational Institutions by Providing the Executive Head of the University of Montana Be An Ex-officio Member Thereof; to Amend Section 855 Revised Codes of Montana 1935 Relating to the Duties and Powers of the State Board of Education by Requiring Heads of Various Institutions to Prepare Budgets and Present Same to State Board of Education and Requiring Said Board of Education to Appear Before Legislative Committee and Explain Budget; to Amend Section 858 Revised Codes of Montana 1935 Relating to the Powers and Duties of the Presidents of the Several State Educational Institutions; and Repealing All Acts in Conflict Herewith and Providing the Effective Date Hereof.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 835 Revised Codes of Montana 1935 be and the same is hereby amended to read as follows:

Sec. 835, R. C. 1935, amended.

"Section 835. **Meetings, Per Diem and Expenses.** The board shall hold quarterly meetings at the state capital or at any other town or city in the State of Montana in or near which may be located any institutions under its jurisdiction, on the second Monday in April, July, September and December in each year, and may hold special meetings at any time and place it may direct. The president and secretary of the board may also call special meetings of said board at any time and place, if in their judgment necessity requires it. The secretary of the board shall notify the members of all regular and special meetings. *The members of the board, other than ex-officio members, shall receive*

Meetings, per diem and expenses.

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ten ($10.00) dollars per day each for each day in attendance on meetings of said board or in the performance of any duty or services as members of such board and necessary and actual expenses incurred, provided, however, that no one of such members shall receive more than five hundred ($500.00) dollars per diem in any one fiscal year. All expenses of the state board of education, including per diem and expenses of members and the salary and expenses of the executive head of the university of Montana incurred while transacting university business, shall be paid out of the appropriations made by the legislative assembly for said university."

Per diem receivable in one year limited.

Sec. 836, R. C. 1935, amended.

Section 2. That Section 836 Revised Codes of Montana 1935 be and the same is hereby amended to read as follows:

Powers and duties of board.

"Section 836. **Powers and Duties.** The state board of education shall have power and it shall be its duty:

Control and supervision of university of Montana and units thereof.

1. To have general control and supervision of the *Montana* state university, *Montana state college, Montana school of mines, Montana* state normal college, eastern *Montana* state normal school, and *northern Montana college, all being units of the university of Montana. It is the purpose of this act that the said six (6) units of our university system shall be considered for all purposes one university.*

Purpose of act.

Rules and regulations.

2. To adopt rules and regulations, not inconsistent with the constitution and the laws of this state, for its own government, and proper and necessary for the execution of the powers and duties conferred upon it by law.

Rules for government of university units.

3. To provide, subject to the laws of the state, rules and regulations for the government of the affairs of the state educational institutions named in this section.

Standards of promotion to and accrediting high schools.

4. To prescribe standards of promotion to the high school department of all public schools of the state, and to accredit such high schools as maintain the standards of work prescribed by the board; provided, that in all examinations which shall be given by this board and shall be conducted by the county board of educational examiners, to determine the scholarship of candidates for promotion to high school, fifty per cent (50%) of the credits required shall be based upon the eighth grade work completed in any school of this state, and certified to the county superintendent by the principal or teacher of such grade.

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Diplomas and honorary degrees.

5. To grant diplomas to the graduates of all state educational institutions, where diplomas are authorized or now granted, upon the recommendation of the faculties thereof, and may confer honorary degrees upon persons, other than graduates, upon the recommendation of the faculty of such institutions.

Official seal.

6. To adopt and use, in the authentication of its acts, an official seal.

Repeal.

7. Repealed—Chapter 131, Laws of 1923.

8. To keep a record of its proceedings.

Annual report.

9. To make an annual report on or before the first day of January in each year, which may be printed under the direction of the state board of examiners.

Instructors in county institutes.

10. To appoint and commission experienced teachers as instructors in county institutes.

Control of property of named institutions.

11. To have, when not otherwise provided by law, control of all books, records, buildings, grounds, and other property of the institutions and colleges named in this section.

Receipt of, use and appropriation of funds.

12. To receive from the state board of land commissioners, or other boards, or persons, or from the government of the United States, any and all funds, incomes, and other property to which any of said institutions may be entitled, and to use and appropriate the same for the specific purpose of the grant or donation, and none other; and to have general control of all receipts and disbursements of any of said institutions.

Appointment of president and faculty for each institution.

13. To choose and appoint a president and faculty for each of the various state institutions named herein, and to fix their compensation. *The board must appoint an executive head of the university of Montana and fix his term of office and salary, and shall prescribe generally his powers and duties. Such executive shall be ex-officio a member of the executive board of each of the state educational institutions, but shall not be or act as president of said board, and he may, in his discretion attend each meeting of each of said executive boards and confer and cooperate with such boards, and perform such other and further duties as the state board of education may prescribe.*

Executive head of university of Montana.

14. To confer upon the executive board of each of said institutions such authority relative to the immediate control

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Conference with executive boards of institutions.

and management, other than financial, and the selection of the faculty, teachers, and employees, as may be deemed expedient, and may confer upon the president and faculty such authority relative to the immediate control, and management, other than financial, and the selection of teachers and employees, as may by said board be deemed for the best interest of said institutions."

Sec. 841, R. C. 1935, amended.

Section 3. That Section 841 Revised Codes of Montana 1935 be and the same is hereby amended to read as follows:

General control of state institutions.

"Section 841. **General Control of State Institutions.** The general control and supervision of the *Montana* state university, *Montana state college, Montana school of mines, Montana* state normal college, eastern *Montana* state normal school and *northern Montana college, all being units of the university of Montana,* the state vocational school for girls, state orphans' home, *Montana* state industrial school, *Montana state training school* and *Montana state school for the deaf and blind* are vested in the state board of education."

Sec. 842, R. C. 1935, amended.

Section 4. That Section 842 Revised Codes of Montana 1935 be and the same is hereby amended to read as follows:

Local executive boards—creation, residence and powers.

"Section 842. **Local Executive Boards—Creation, Residence and Powers.** There shall be an executive board, consisting of three (3) members, for each of said institutions named in the preceding section, two (2) of whom shall be appointed by the governor, by and with the advice and consent of the state board of education. The president of such institution *and the executive head of the university of Montana* shall be ex-officio *members* of said board. At least two (2) of said members shall reside in the county where such institution is located. Said executive board shall have such immediate direction and control, other than financial, of the affairs of such institution as may be conferred on such board by the state board of education, subject always to the supervision and control of said state board, *provided this section shall not apply to the executive board for the state vocational school for girls.*"

Sec. 855, R. C. 1935, amended.

Section 5. That Section 855 Revised Codes of Montana 1935 be and the same is hereby amended to read as follows:

Duties and powers of board.

"Section 855. **Duties** *and Powers* **of State Board of Education.** It shall be the duty of the state board of education, in the exercise of its discretion, in the government and

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control of said university of Montana and its component institutions, as conferred upon it by the constitution of the state, to take such steps and prescribe such rules as may be necessary to prevent unnecessary duplications of courses of instruction in the various educational institutions composing the university of Montana; to investigate carefully the needs of each of said institutions with reference to buildings, equipment, and instruction. *It shall be the duty of each member of said board to visit each of said educational institutions at least once each year, and at such other times as the board may deem necessary in order to acquaint himself of the needs and management of said institutions.*"

Visitation of institutions.

Section 6. That Section 858 Revised Codes of Montana 1935 be and the same is hereby amended to read as follows:

Sec. 858, R. C. 1935, amended.

"Section 858. **Powers and Duties of Presidents of Several Institutions.** The presidents of each of the educational institutions constituting the university of Montana, as herein prescribed, in connection with their respective executive boards of the several institutions, as now prescribed by law, shall have the immediate direction, management, and control of their respective institutions, subject to the general supervision, direction and control of the state board of education and *executive head,* as now prescribed by law. *The president of a unit of the university of Montana shall not act as the executive head of the university system.*"

Powers and duties of president of institutions.

Section 7. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 8. This act shall be in full force and effect from and after its passage and approval.

Effective date.

Approved March 2, 1945.

CHAPTER 159

An Act to Amend Section 5119 of the Revised Codes of Montana 1935 As Amended by the Provisions of Chapter 43 of the Session Laws of the Twenty-sixth Legislative Assembly of Montana of 1939, Relating to Disability and Pension Funds of Fire Department Relief Associations and the Tax Levy for Maintaining Same, and Providing a Maximum Levy for Such Provisions by Cities in the Third Class.

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Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 5119, R. C. 1935, as amended, further amended.

Section 1. That Section 5119 of the Revised Codes of Montana 1935 as amended by the provisions of Chapter 43 Session Laws, of the twenty-sixth legislative assembly of 1939 be and the same is hereby amended to read as follows:

Special tax for maintaining disability and pension fund.

"Section 5119. For the purpose of maintaining said disability and pension funds of such fire department relief association, in an amount equal to one per centum (1%) of the taxable valuation of all taxable property within the limits of the city, town or municipality, the city or town council or the commission or other proper authority of any municipality that is now or may hereafter be established under special or local law passed by the legislative assembly and adopted by the electors entitled to vote thereon, shall annually at all times when the said relief association fund contains an amount less than one per centum (1%) of the taxable valuation of all taxable property within the limits of the city, town or municipality, in the manner provided by law, and at the time of the levy of the annual tax, levy a special tax of not to exceed one (1) mill on the dollar upon the taxable valuation of all taxable property assessed for taxes within the limits of said city, town or municipality, which said tax shall be collected as other taxes and when so collected shall be paid into the disability and pension fund of the fire department relief association of said city, town or municipality; *provided, however, if the assessment of a one (1) mill levy in any one year shall be insufficient to raise the said disability and pension fund to one per centum (1%) of the taxable valuation of all taxable property, as herein provided, successive levies of one (1) mill per annum shall be made until said fund shall equal one per centum (1%) of the taxable valuation of all taxable property; provided, further that if successive levies of one (1) mill in any one year will cause said fund to exceed one per centum (1%) of the taxable valuation of all taxable property, then, in that event, such fractional part of one (1) mill shall be the tax levy as will bring said fund to one per centum (1%) of said taxable valuation of all taxable property within the limits of the city, town or municipality; providing that when in cities of the third class, the disability and pension fund of the fire department relief association fund contains an amount less than two per centum (2%) of all taxable property within the city limits of a city, town or municipality, the city council*

Successive levies, when.

Provision relating to cities of third class.

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may levy an annual special tax not to exceed two (2) mills on the dollar upon the taxable valuation of all taxable properties assessed by tax within the said city, town or municipality."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after July 1, 1945.

Approved March 2, 1945.

CHAPTER 160

An Act to Amend Section 3886 of the Revised Codes of Montana 1935 Changing the Date When Public Utilities Shall Close Their Accounts and File Reports With the Public Service Commission.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 3886, R. C. 1935, amended.

Section 1. That Section 3886 of the Revised Codes of Montana 1935 be and the same is hereby amended to read as follows:

"Section 3886. **Annual Report to Public Service Commission.** The accounts of *all* public utilities shall be closed annually on the thirty-first day of December, a balance sheet taken promptly therefrom, and full annual reports of the business be made to the commission not later than the fifteenth day of March following the closing of the accounts. The reports shall be in such form as prescribed by the commission, and shall contain all the information deemed by the commission necessary for the proper performance of its duties. The commission may at any time call for desired information omitted from such reports, or not provided for therein, whenever, in the judgment of the commission, such information is necessary."

Annual report to public service commission.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 3, 1945.

CHAPTER 161

An Act to Provide for the Payment of Delinquent Special Improvement Assessments Levied by the City of Cut

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Bank Upon and Against Certain Lots and Tracts of Land Owned by the State of Montana and Lying Within the Limits of Said City; and Appropriating Money for Said Purpose.

Be it enacted by the Legislative Assembly of the State of Montana:

Appropriation for payment by state board of land commissioners to city of Cut Bank for special improvement assessments.

Section 1. There is hereby appropriated from any moneys in the general fund of the state treasury, not otherwise appropriated, the sum of fifteen thousand three hundred seventy-one and 85/100 ($15,371.85) dollars, to the state board of land commissioners to be paid out by said board in the discharge of the obligation of the State of Montana to the city of Cut Bank, Glacier county, Montana, arising out of the levy of assessments by said city for the construction of sewers, sidewalks, paving and other improvements made in duly and lawfully created special improvement districts in said city and which levies to the extent of the above mentioned sum became due and payable as to and a lien against certain lots and tracts of land owned by the State of Montana within the city limits of said city of Cut Bank and lying within said special improvement districts, and the full amount of said sum is now past due and delinquent.

Payment by board authorized.

Section 2. The state board of land commissioners is hereby authorized and directed to pay the said sum of fifteen thousand three hundred seventy-one and 85/100 ($15,371.85) dollars as the amount of assessments due, without penalty and interest, and the city of Cut Bank and county of Glacier, Montana, are hereby authorized to accept said payment of the principal, without penalty and interest, in full and final settlement of said obligation and the discharge of said lien.

Budget act not applicable.

Section 3. The appropriation herein made shall be held, and be valid, regardless of the provisions of the budget act.

Effective date.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved March 3, 1945.

CHAPTER 162

An Act Requiring Users of Diesel Fuel for Propelling Motor Vehicles Upon the Public Highways of Montana to

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Secure a Use Fuel Permit from the State Board of Equalization of the State of Montana; Regulating the Issuance and Revocation of Such Permits and Defining the Terms Used in This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Use fuel tax permit, when required.

Section 1. **Use Fuel Tax Permit When Required.** From and after the effective date of this act, every person who shall desire to become a user of diesel fuel as herein defined, for the purpose of producing power to propel motor vehicles upon public highways or streets within the State of Montana, shall first secure a use fuel tax permit from the state board of equalization of the State of Montana (hereinafter referred to as the board).

Application for and issuance of permit.

Section 2. **Application for and Issuance of Permit.** Application for such permits shall be made to the board upon forms prescribed by it and furnished to any applicant upon request. Upon receipt of a proper application the board shall issue to the applicant a use fuel tax permit, the form of which shall be prescribed by the board, authorizing the applicant to purchase and use diesel fuel for the purpose of propelling motor vehicles upon public highways and streets within the State of Montana.

Revocation of permits.

Section 3. **Revocation of Permits.** Whenever any person subject to the terms of this act shall fail to comply with any provision of this act or with any rule or regulation of the board prescribed and adopted under this act, the board, after a hearing and after giving such person ten (10) days notice in writing of the time and place of such hearing and requiring him to show cause why his permit should not be revoked, may revoke such person's permit for a period of not to exceed one (1) year.

"Diesel fuel" defined.

Section 4. **Diesel Fuel Defined.** The words "diesel fuel" as used in this act shall mean and include every substance commonly known and designated by the name "diesel fuel" and shall include every volatile substance of less than forty-six (46) degrees Baume test, when sold or used for the purpose of producing motor power to propel motor vehicles upon any public highways or streets within the State of Montana.

Section 5. **Other Terms Defined.** All other words and terms used in this act, including the words "person", "mo-

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"Persons," "motor vehicle" and "use" defined.

tor vehicle'' and ''use'' shall, unless otherwise indicated in this act, have the same meaning given to said words by Section 2381.11 of the Revised Codes of Montana of 1935.

Existing statutes not affected by act.

Section 6. **Existing Statutes Not Affected by This Act.** Nothing herein contained shall be deemed to repeal any of the existing laws of Montana relating to the collection of license tax upon diesel fuel as defined herein, but the tax upon all volatile liquids of less than forty-six (46) degrees Baume test shall be collected by the board under rules and regulations prescribed by it as authorized by Section 2381.23, Revised Codes of Montana of 1935.

Effective date.

Section 7. **Effective Date of Act.** This act shall take effect upon its passage and approval.

Approved March 3, 1945.

CHAPTER 163

An Act Providing That the Provisions of Section 2381.22 Revised Codes of Montana 1935, and Section 2396.4 Revised Codes of Montana 1935, As Amended by Chapter 96 of the Laws of the Twenty-fifth Legislative Assembly of 1937, and by Chapter 67 of the Laws of the Twenty-sixth Legislative Assembly of 1939, Shall Be Applicable to All License Taxes Imposed and Collected Pursuant to Chapter 39 of the Laws of the Twenty-ninth Legislative Assembly of 1945.

Be it enacted by the Legislative Assembly of the State of Montana:

Existing statutes amended to apply to license taxes imposed by Chap. 39, laws of 1945.

Section 1. That the provisions of Section 2381.22 of the Revised Codes of Montana 1935, and Section 2396.4 Revised Codes of Montana 1935, as amended by Chapter 96 of the laws of the twenty-fifth legislative assembly of the State of Montana of 1937, and by Chapter 67 of the laws of the twenty-sixth legislative assembly of the State of Montana of 1939, shall be applicable to all license taxes imposed and collected pursuant to the provisions of Chapter 39 of the laws of the twenty-ninth legislative assembly of the State of Montana of 1945.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

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Section 3. This act shall be in full force and effect on and after the passage and approval. Effective date.

Approved March 3, 1945.

CHAPTER 164

An Act to Amend Section 3279 of the Revised Codes of Montana, As Amended by Section 3 of Chapter 75, Laws of Montana of 1943, Relating to Claims for Animals Slaughtered by Order of the Livestock Sanitary Board, and Changing Deductions Therefor.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 3279, Revised Codes of Montana, 1935, as amended by Section 3, Chapter 75 of the Session Laws of 1943, be, and the same is hereby amended to read as follows: Sec. 3279, R. C. 1935, as amended, further amended.

"Section 3279. **Compensation from Federal Government or Other Agency.** In all cases where the federal government, or agency other than the state or county, shall compensate the owner in whole or in part for livestock or property destroyed by order of the Montana livestock sanitary board, then the amount of such compensation from the federal government, or other agency, shall be deducted from *the owner's claim, as filed against the state and county, that is, from the balance that remains after the net salvage price received from the sale or other disposal of the condemned animal has been deducted from the appraised value;* and provided further, that where the owner, or agent, of such livestock or property destroyed by order of the Montana livestock sanitary board shall forfeit any indemnity which the owner would otherwise be entitled to from the federal government, or compensating agency other than the state or county by violation of the regulations of the federal government, or other agency, then and in such case an amount equal to the indemnity which would have been paid by the federal government, or other indemnifying agency, but for the forfeiture, shall likewise be deducted from the *owner's claim; that is, the balance that remains after the net salvage price received from the sale or other disposal of the condemned animal has been deducted from the appraised value.*" Compensation from federal government or other agencies.

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Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 3, 1945.

CHAPTER 165

An Act to Amend Section 3385, Revised Codes of Montana, Relating to Animals Running at Large in Herd Districts, Increasing Penalty Therefor.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 3385, R. C. 1935, amended.

Section 1. That Section 3385, Revised Codes of Montana, be, and the same is amended to read as follows:

"Section 3385. **Penalty for Permitting Animals to Run at Large in Herd Districts—Permitting Bull to Run at Large in Herd Districts Constitutes Misdemeanor.** Any person who is the owner, or entitled to the possession of any horses, mules, cattle, sheep, or goats, who shall wilfully permit same to run at large within any herd-district, shall be guilty of a misdemeanor; and, upon conviction thereof, shall be punished by a fine of not less than *ten ($10.00) dollars,* nor more than *twenty-five ($25.00) dollars* for each offense; and each day that each five head, or less, of such horses, mules, cattle, sheep, or goats, are wilfully permitted to run at large shall constitute a separate offense.

Penalty for permitting animals to run at large in herd districts.

Permitting bull to run at large in herd districts, penalty for.

Any person who is the owner, or entitled to the possession of any bull over one (1) year of age who shall wilfully permit same to run at large within any herd-district shall be guilty of a misdemeanor; and upon conviction thereof, shall be punished by a fine of not less than ten ($10.00) dollars, nor more than fifty ($50.00) dollars for each offense; and each day that such bull be permitted to run at large shall constitute a separate offense."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 3, 1945.

CHAPTER 166

An Act to Establish the Montana Wool Laboratory At Montana State College of Agriculture and Mechanic Arts, Located At Bozeman, Montana, Under the Montana

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Agricultural Experiment Station, for the Purpose of Sampling, Testing and Scouring Wool Clips and Wool Fleeces of Montana Woolgrowers and Conducting and Carrying On Scientific and Practical Research to Obtain Knowledge of Montana Wools, Providing for a Supervisor of Said Laboratory, Authorizing the Said Experiment Station to Obtain Such Equipment, Facilities and Staff As May Be Necessary and Proper to Carry On Such Sampling, Testing, and Research Work, Creating An Advisory Committee, Instituting a Field Service, and Providing That the Said Laboratory May Make Appropriate Rules and Regulations and to Make Appropriations Therefor.

Be it enacted by the Legislative Assembly of the State of Montana:

State wool laboratory —purpose of.

Section 1. There is hereby created and established at the Montana state college of agricultural and mechanic arts at Bozeman, Montana, and in the Montana agricultural experiment station, a state wool laboratory for the purpose of sampling, testing and scouring wool clips and fleeces of Montana woolgrowers to ascertain shrinkage, strength, fineness, length of staple, uniformity and character of wool, and for the purpose of carrying on effective scientific and practical research work to the end of developing as complete and accurate knowledge of Montana wools as is reasonably possible.

Its name.

Section 2. The name of the said wool laboratory as established in the foregoing section shall be the Montana wool laboratory.

Supervision.

Section 3. The Montana wool laboratory shall be under the general supervision of the director of the Montana agricultural experiment station. It shall be directly in charge of the head of the department of animal industry and range management of the Montana agricultural experiment station who shall be known as the director of the laboratory. Said director of the laboratory shall organize the Montana wool laboratory at its permanent location and perfect its field service and arrange adequate staff, equipment and facilities, by and with counsel of the advisory committee hereinafter provided.

Director to organize and perfect field service.

Advisory committee created.

Section 4. There is hereby created and established an advisory committee of three (3) members who shall aid or assist and advise in the internal administration, field serv-

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ice, and all activities of the laboratory as hereafter provided: The advisory committee shall consist of (a) the director of the agricultural experiment station; (b) one (1) member selected by the governor, as chairman of the state board of education, from a list of wool growers named by the board of trustees of the Montana wool growers association; and (c) one (1) member selected by the governor from a list of members of the wool trade named by the director of the agricultural experiment station from among individuals actively engaged within the State of Montana in the handling of Montana wools. The director of the laboratory shall serve as secretary of said advisory committee. The two (2) chosen committee members shall serve, respectively, a three (3) year term from and after the initial organization of the advisory committee. The advisory committee shall meet not less than once in each year to hear the annual report and participate in the formulation of the policy and program of the Montana wool laboratory. Per diem expenses of the two (2) chosen committee members shall be paid out of laboratory funds at the rate of ten ($10.00) dollars per day of service.

Members, how selected.

Terms.

Meetings.

Per diem.

Section 5. The director of the laboratory and advisory committee shall have the power to promulgate reasonable rules and regulations within the limitation of this act as may be necessary or proper for the conduct of the laboratory and its field service and for relations with individual woolgrowers and members of the wool trade desiring the services of the laboratory.

Rules and regulations.

Section 6. The director of the laboratory shall have authority to employ such employees, scientific, skilled or practical, as are necessary fully to carry on the work of the laboratory and he shall have authority to incur expenditures for travel, hotel, meals, express, freight, postage, and other items necessary in connection with sampling, testing, and research. The director of the laboratory, with the assistance of the laboratory staff, will be responsible for the publication of results of the work of the laboratory and he shall have authority to incur expenditures necessary for publication of results.

Director authorized to employ employees.

Travel expense.

Publication of results of work.

Section 7. The Montana wool laboratory shall maintain a field service which shall collect samples of Montana wool for tests, from all Montana woolgrowers willing to co-operate with the laboratory in order to establish the true grade

Collection of samples of wool for testing.

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and character of such wools and the other factors mentioned.

Records to be built up.

The laboratory is directed to build up complete, consecutive records for the purpose of establishing permanent bases from which to judge as to results and to formulate judgment as to the types of sheep especially adapted and productive in the Montana wool growing industry, and all woolgrowers submitting samples for testing shall, as a condition of receiving service, fully co-operate with the laboratory in the disclosure of relevant data.

Fees to be paid for testing service.

Section 8. Woolgrowers availing themselves of the testing service shall pay fees therefor to the Montana wool laboratory as determined by the cost of furnishing the specific testing service. These costs shall be adjusted so that the field service shall eventually become self-supporting in itself, without respect to the research work.

Co-operation with U. S. department of agriculture.

Section 9. The Montana wool laboratory shall co-operate fully with the United States department of agriculture for the benefit of the Montana wool industry. The laboratory shall keep a complete and comprehensive system of records covering (a) its internal administration, (b) activities and meetings of its advisory committee and (c) all sampling, testing and research work. The Montana wool laboratory is hereby authorized to receive from the federal government any monies which the federal government may make available for the use of such laboratory, and all such funds shall be paid to the state treasurer and by him deposited in a special trust fund, hereinafter provided for, or in such other fund as may be designated by the federal government. The Montana wool laboratory is further authorized to receive donations from individuals for the purposes of said laboratory, which shall also be paid to the state treasurer and be deposited in said special trust fund.

System of records, what shall be covered.

Receipt and disposition of moneys.

Appropriation for purposes of act.

Section 10. There is hereby appropriated out of the state treasury of the State of Montana for the establishment and maintenance of the Montana wool laboratory, including salaries, expenses, necessary buildings and equipment, the sum of twenty-five thousand dollars ($25,000.00) for each of the fiscal years, July 1, 1945 through June 30, 1946, and July 1, 1946 through June 30, 1947, out of any moneys in the general fund of the State of Montana not otherwise appropriated.

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Special trust fund, appropriation of moneys from.

All moneys collected by the Montana wool laboratory shall be paid to the state treasurer and by him shall be set aside in a special trust fund, from which fund there is hereby appropriated for the use of said wool laboratory as much thereof as may be necessary for the payment of salaries and expenses, including purchase of equipment and supplies, and erection of necessary buildings.

Appropriation of moneys provided by federal government.

In addition, there is hereby appropriated for the Montana wool laboratory, all federal funds which may by the federal government be provided for the maintenance and operation of said Montana wool laboratory and also all funds which may be received by said laboratory, or for its use and benefit for special purposes incident to, and in harmony with the purpose of said laboratory.

Repealing clause.

Section 11. All acts and parts of acts in conflict herewith are hereby resolved and sections in this act shall be in

Effective date.

full force and effect from and after its passage and approval.

Approved March 3, 1945.

CHAPTER 167

An Act to Amend Sections 567, 594 and 633 of the Revised Codes of Montana, 1935, Relating to Printing and Posting of Lists of Electors and Election Notices; to Shorten Time for Posting.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 567, R. C. 1935, amended.

Section 1. That Section 567 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Printing and posting of lists of registered electors.

"Section 567. **Printing and Posting of Lists of Registered Electors.** The county clerk shall, at least 15 days preceding any municipal primary nominating election in towns and cities, and at least *twenty (20)* days preceding any other election, cause to be printed and posted a list of all electors entitled to be registered as shown by the official register of the county, and who are on the precinct registers as entitled to vote in the several precincts of such county, city or town, or school district of the first class, provided, that if the city clerk of any city or town shall, in writing, certify to the county clerk, not less than twenty-five (25)

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days before the date fixed by law for the holding of any primary nominating election, that no petitions for nomination under the direct primary election law for any office to be filled at the next ensuing annual city election have been filed with such city or town clerk, not less than thirty (30) days before the date fixed by law for the holding of the primary nominating election, then the county clerk shall not cause to be printed or posted such list of registered electors for such city or town. Such printed list of registered electors shall contain the name of the elector in full, together with his residence, giving the number and street, or the name of the house, (.....) *and in all cases where the elector resides outside of the city or town, such printed list shall contain the post office address of such elector,* as shown by the official register card of the elector, and the registry number. The expense of printing said list shall be paid by said county, city or town, or school district, in which the election is to be held. The county clerk shall cause to be posted, not less than fifteen (15) days before any municipal primary nominating election, and not less than *twenty (20)* days before any other election, as in this act provided for, at least five (5) copies of such printed registry list in at least five (5) conspicuous places within said precinct, a copy of the list of registered voters herein provided for, and shall retain sufficient number of said printed lists of registered voters in his office as may be necessary for the convenience of the public. He shall furnish to any qualified elector of any county, city or town or school district applying therefor a copy of the same, provided, that where the list herein provided for has been printed and posted for any primary election, the same may be used for the election proper, following a posting in connection therewith, at the time provided for in this section, a supplemental list giving the names of electors who may have registered after the first list was prepared."

Expense of printing.

Section 2. That Section 594 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Sec. 594, R. C. 1935, amended.

"Section 594. **Clerks to Mail to Judges Notices of Election—Form of Notices.** The clerks of the several boards of county commissioners must, at least *twenty (20)* days before any general election, make and forward by mail to such judge or judges as are designated by the county com-

Clerks to mail judges notices of election.

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missioners, three written notices for each precinct, said notices to be substantially as follows:

Form of notice.

Notice is hereby given that on the first Tuesday after the first Monday of November, 19....., at the house..... ....., in the county of..... ....., an election will be held for..... (naming the offices to be filled, including electors of president and vice-president, a representative in congress, state, county and township officers), and for the determination of the following questions (naming them), the polls of which election will be open at 8 o'clock in the morning and continuing open until 6 o'clock in the afternoon of the same day.

Dated this.....day of....., A. D. 19.....

Signed A. B., clerk of the board of county commissioners."

Sec. 633, R. C. 1935, amended.

Section 3. That Section 633 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Primary nominating election notices.

"Section 633. **Primary Nominating Election Notices.** It shall be the duty of the county clerk, *twenty (20)* days before any primary nominating election, to prepare printed notices of such election, and mail two of said notices to each judge and clerk of election in each precinct; and it shall be the duty of the several judges and clerks immediately to post said notices in public places in their respective precincts. Said notices shall be substantially in the following form:

PRIMARY NOMINATING ELECTION NOTICE

Form of notice.

Notice is hereby given that on....., the .....day of....., 19....., at the..... ..... in the precinct of....., Montana, a primary nominating election will be held at which the (insert the names of political parties subject to this law) will choose their candidates for state, district, county, precinct and other offices, namely (here name the offices to be filled, including a senator in congress, delegates to any constitutional convention then called, and candidates for county central committeemen to be elected); which election will be held at 12 o'clock, noon, and will continue until 7 o'clock in the afternoon of said day.

Dated this.....day of..... ....., 19..... ....., county clerk."

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Section 4. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved March 5, 1945.

CHAPTER 168

An Act to Provide for the Alteration of the Boundaries of, and for the Annexation of Territory to Incorporated Towns and Cities and for the Incorporation of Such Annexed Territory In and As a Part of Such Municipalities, and for Government and Municipal Control of Annexed Territory.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. The boundaries of any incorporated town or city, whether heretofore or hereafter formed, may be altered and new territory or territories annexed thereto, incorporated and included therein, and made a part thereof, upon proceedings being had and taken as in this act provided. Procedure for altering boundaries of incorporated towns and cities, and for annexing new territory. The council, or other legislative body of any such municipal corporation, upon receiving a written petition therefor containing a description of the new territory or territories asked to be annexed to such corporation, and signed by not less than thirty-three and one-third per cent (33 1/3%) of the resident free holder electors of the territory proposed to be annexed must, without delay, submit to the electors of such municipal corporation and to the electors residing in the territory or territories proposed by such petition to be annexed to such corporation, the question whether such new territory or territories shall be annexed to, incorporated in, and made a part of said municipal corporation. Such question may be so submitted at the next general municipal election to be held in such municipal corporation, or it may be so submitted prior to such general election, either at a special election called therein for that purpose, or at any other municipal election therein, except an election at which the submission of such question is prohibited by law; and such council or legislative body is hereby empowered to and it shall be its duty to cause notice to be given of such election by the publication of a notice thereof in a newspaper printed and published in such municipal corporation at least once a week for a period of three (3) successive weeks next preceding the date of such

Petition for annexation.

Question to be submitted to electors.

Notice of election and publication thereof.

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election, or if there is no newspaper printed in such municipal corporation, then such notice shall be published in like manner for a like period in the nearest town or city in the county in which said territory or territories to be annexed is situated, in which such newspaper is printed. Such notice shall distinctly state the proposition to be submitted, i. e., that it is proposed to annex to, incorporate in, and make a part of such municipal corporation the territory or territories sought to be annexed, specifically describing the boundaries thereof; and in said notice the qualified electors of said municipal corporation, and the qualified electors residing in said territory or territories so proposed to be annexed, shall be invited to vote upon such proposition by placing upon their ballots the words "for annexation" or "against annexation", or words equivalent thereto. Such council or legislative body is hereby empowered, and it shall be its duty, to establish, and in such notice of election designate the voting precinct or precincts, the date of said election, the place or places at which, and the hours between which the polls will be opened for such election, and such other information regarding said election as the said council or legislative body may deem proper. Such place or places shall be that or those commonly used as voting places within such municipal corporation, and also that or those commonly used by the electors residing in such new territory or territories.

Contents of notice.

Ballots, wording on.

Voting precincts.

Special election, hours through which polls are to be open.

Section 2. If the question of annexation is submitted at a special election called for such purpose, the city or town council, or other legislative body, shall fix the hours through which the polls are to be kept open, which shall be not less than eight (8), and which must be stated in the notice of election, and may appoint a smaller number of judges than is required at a general city or town election, but in no case shall there be less than three (3) judges in a precinct and such judges shall act as their own clerks. If the question of annexation is submitted at a general city or town election, the polls shall be kept open during the same hours as are fixed for the general election, and the judges and clerks for such general election shall act as the judges and clerks thereof. Whenever the question of annexation under this title is submitted at either a general city or town election, or at a special election, separate ballots, white in color and of convenient size, shall be provided therefor. The election shall be conducted, and the returns made in the same man-

Separate ballots.

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ner as other city or town elections; and all election laws governing city and town elections shall govern insofar as they are applicable, but if such question be submitted at a general city or town election, the votes thereon must be counted separately, and separate returns must be made by the judges and clerks at such election. If the said annexation election is held at the same time as a general city or town election, then the returns shall be canvassed by the city or town council at the same time as the returns for such general election; but if the question of annexation is submitted at a special election, then the city or town council shall meet within ten (10) days after the date of the holding of such special election and canvass the returns. If it is found that a majority of such votes were cast in favor of the annexation, the city or town council, or other legislative body shall, at a regular or special meeting held within thirty (30) days thereafter, pass and adopt a resolution providing for such annexation. Such resolution shall recite that a petition has been filed with the said council or other legislative body with a sufficient number of signatures of thirty three and one-third per cent (33 1/3%) of the resident free holder electors of the territory proposed to be annexed; a description of the boundaries of the territory or territories to be annexed; a copy of the resolution ordering a general or special election thereof, as the case may be; a copy of the notice of such election; the time and result of the canvass of the votes received in favor of annexation, and the number thereof cast against annexation; and that the boundaries of such city or town, by such resolution, shall be extended so as to embrace and include such territory or territories as the same are described in the petition for annexation, which said resolution shall be incorporated in the minutes of said council or legislative body. The clerk or other officer performing the duties of clerk of such council or legislative body, shall promptly make and certify under the seal of said municipal corporation, a copy of said record so entered upon said minutes, which document shall be filed with the clerk of the county in which the city or town to which said territory or territories are sought to be annexed, is situated. From and after the date of the filing of said document in the office of the said county clerk, the annexation of such territory or territories so proposed to be annexed shall be deemed and shall be complete and thenceforth such annexed territory or territories shall be, to all intents and purposes,

Canvassing of returns.

Resolution by council.

Clerk of town or city to file certified copy of record.

Annexation deemed completed, when.

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a part of said municipal corporation, and the said city or town to which the annexation is made, has the power to pass all necessary ordinances pertaining thereto.

Territory which may not be annexed.

Section 3. No territory which, at the time such petition for such proposed annexation is presented to such council or legislative body, forms any part of any incorporated town or city, shall be annexed under the provisions of this act.

Section 4. No parcel of land which, at the time such petition for such proposed annexation is presented to such council or legislative body, is used in whole or in part for agricultural, mining, smelting, refining, transportation, or any industrial or manufacturing purpose or any purpose incident thereto, shall be annexed under the provisions of this act.

Act not applicable to certain cities, depending upon population.

Section 5. This act shall not be applicable to cities having a population, as shown by the last preceding federal census of less than twenty thousand (20,000) and not more than thirty-five thousand (35,000) and shall not repeal Section 4978 of the Revised Codes of Montana, 1935, having reference to extension of the corporate limits of cities of the first, second and third classes to include contiguous land, but is intended and does provide an alternative method for the annexation of territory or territories to municipal corporations. When any proceedings for annexation of territory or territories to any municipal corporation are commenced under this act the provisions of this act and of such amendments thereto as may thereafter be adopted, and no other, shall apply to such proceedings.

Effective date.

Section 6. This act shall be in full force and effect from and after its passage and approval by the governor.

Approved March 5, 1945.

CHAPTER 169

An Act to Amend Section 3393 of the Revised Codes of the State of Montana of 1935, Relating to Swine, Sheep and Goats Running at Large.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 3393 of the Revised Codes of

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Montana 1935 be and the same is hereby amended to read as follows:

Sec. 3393, R. C. 1935, amended.

"Section 3393. **Swine, Sheep and Goats Running at Large.** It shall be unlawful for any owner or owners, *person or persons in control* of swine, *sheep or goats,* to *wilfully* permit the same to run at large."

Swine, sheep and goats running at large.

Section 2. All acts or parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved March 5, 1945.

CHAPTER 170

An Act Relating to Public Health, Establishing a Division of Tuberculosis Control in the State Department of Health, Providing for a Director of Such Division Providing for Acceptance of Grants or Other Funds, and Making an Appropriation by the State for Carrying Out Provisions of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is hereby created and established in the state department of health a division of tuberculosis control, which shall be subject to rules and regulations promulgated by the state board of health. The division of tuberculosis control shall be under the general direction of the executive officer of the state board of health, and be administered by a director of the division.

Division of tuberculosis control, in state department of health, creation of.

Section 2. **State Director of Tuberculosis Control.** The state board of health shall appoint, subject to the rules and regulations under the Montana merit system council, a state director of tuberculosis control.

State director of tuberculosis control.

Section 3. The state board of health, in addition to the expenditure of state funds appropriated by the state for the control of tuberculosis, is hereby authorized to receive, and through the executive officer of the state board of health, administer, use and expend all federal and other funds or moneys which from time to time may be made available to the state department of health for the control of tuberculosis in the State of Montana, and to allot and distribute such funds or moneys, or portions thereof, to county and other local departments, or other qualified agencies or to

Board of health authorized to receive, use and expend funds available for control of tuberculosis.

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state, county or other tuberculosis hospitals or sanitariums within the State of Montana, for use in accordance with the rules and regulations of the state board of health; and to enter into such contracts with the federal or other agencies as the state board of health may deem appropriate, concerning the receipt, use and expenditure of any such funds or moneys.

Appropriation.

Section 4. In order that the provisions of this act may be carried out there is hereby appropriated from any money in the state treasury, not otherwise appropriated to the state board of health, the sum of twenty-five thousand ($25,000.00) dollars for each year of the biennial period 1945-1947.

Approved March 5, 1945.

CHAPTER 171

An Act to Permit the Montana State Board of Health to Receive Grants of Money from the United States, or Agencies Thereof, and from Other Agencies for Use in the Promotion of Public Health; to Provide for the Creation and Supervision of Full-time County and District Health Departments and for Full-time County and District Boards of Health; the Employment of Full-time County and District Health Officers and Other Officers and Employees; Financing and Defining the Duties of Such Health Departments, Boards of Health, Health Officers, and Employees.

Be it enacted by the Legislative Assembly of the State of Montana:

State board of health authorized to receive grants or moneys from the United States and other agencies.

Section 1. The state board of health of Montana is hereby authorized and empowered to receive from the United States, or agencies thereof, and from other agencies within and without the state such grants or sums of money as may hereafter be allocated from the United States or agencies thereof, and from other agencies, to the state board of health of Montana for the promotion and development of public health work within the state; and to use certain portions of such moneys so received as grants in aid to counties or districts in maintaining full-time county or district health units, the organization of which is herein provided for; and to participate in the creation and supervision thereof as hereinafter provided.

Use of moneys for grants in aid to counties or district health units.

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Establishment of full-time county health units.

Section 2. **Establishment of Full-time County Health Units.** Any county may at the discretion of the county commissioners establish a full-time county health unit and provide for the maintenance of the same under the provisions of this act. A full-time county health unit shall be considered to be a health organization which shall be under the immediate direction of a health officer and other trained personnel who shall be employed by the county board of health with the approval of the state board of health, to devote their entire time to the prevention of disease and the promotion of the public health.

Merger of health service of cities of first class with county health unit.

Section 3. Any first-class city located within a county in which a county health unit is now being maintained or may be organized, by mutual agreement between the municipal government and the county government, may merge its health service with that of the county in which it is located and participate in the financial maintenance of the full-time county health unit which shall have full supervision and control over all matters pertaining to the prevention of disease and the promotion of the public health within such city. All matters pertaining to the prevention of disease and the promotion of health in cities, towns and villages, other than first-class cities, which are located in a county maintaining a county health unit, shall come under the jurisdiction of the full-time county health unit.

Creation of county boards of health.

Section 4. **Creation of County Boards of Health.** There shall be created in each county operating a full-time county health unit a county board of health to consist of five (5) members, all of whom shall be qualified electors of the State of Montana and of the county in which they serve. The members of the board shall consist of a county commissioner selected by the board of county commissioners, and four (4) other members, one of whom shall be a doctor of medicine and one of whom shall be a doctor of dentistry, each of whom must be appointed by the board of county commissioners and approved by the state board of health, provided that such members shall not hold any other county office, and further provided that in those counties where first-class cities combine with the county in the maintenance of a county health unit, the board of health shall include as one of the members the city superintendent of schools, and the mayor or one member of the city council to be appointed by the mayor of such participating first-class city. The county health officer shall not be a member of the board of

Members.

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health but shall act as its secretary. Where a board of health consists of five (5) members, one member shall be appointed for one (1) year, one (1) member shall be appointed for two (2) years, one (1) member shall be appointed for three (3) years, one (1) member shall be appointed for four (4) years, and one (1) member shall be appointed for five (5) years, etc., and upon the termination of office, members shall be thereafter appointed for a period of five (5) years. Vacancies which occur on the board of health by reason of death or resignation or for other reasons, shall be filled for the unexpired term of the vacated member and appointments to fill such vacancies shall be made as heretofore specified, and the member or members so appointed shall be approved by the state board of health.

Terms of members.

Vacancies, how filled.

Establishment of district health units.

Section 5. **Establishment of District Health Units.** Two or more adjacent counties and the first-class cities located therein may, when it is so desired by the several political subdivisions, pool their resources to form a full-time district health unit. For the maintenance of such full-time district health unit the cost thereof shall be borne by the several participating counties on a basis of assessed valuation of each participating county in proportion to the total assessed valuation of all property within the area included in the district. When first-class cities desire to cooperate in the maintenance of a full-time district health unit, they shall financially cooperate in such amount as may be agreed upon by the governing council or body of the city concerned and the county commissioners for the county in which such first-class city is located. Any funds appropriated for health service by a city which shall participate in the maintenance of a full-time district health unit shall be paid to the county treasurer who shall disburse those funds as county funds.

Co-operation by first-class cities.

Full-time health unit construed to be, what.

A full-time district health unit shall be construed to be a health unit organized to include contiguous territory in one or more adjacent counties; and which shall be under the immediate direction of a health officer and other personnel who shall be employed to devote their entire time to the prevention of disease and the promotion of the public health; provided that it shall be permissible to employ at least one (1) physician on a part-time basis as assistant health officer in each county included in the health district other than the county in which the headquarters of the dis-

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trict health unit are located. The duties of an assistant health officer shall be confined to the diagnosis of communicable disease and such other duties as may be assigned to him by the district health officer.

District boards of health created.

Section 6. **Creating District Boards of Health.** When two or more counties unite in the maintenance of a district health unit, a district board of health shall be created in the following manner: The district board of health shall consist of a member of the county commissioners of each participating county who shall be appointed by the board of county commissioners of each participating county, and additional members not to exceed a total of seven (7) members. In the event one or more first-class cities shall cooperate in the maintenance of a full-time district health unit, the mayor, with the approval of the city council or other governing body of each first-class city so cooperating in the maintenance of a district health unit shall appoint one (1) member to the district board of health. Other members of the district board of health, not to exceed a total of seven (7) members in all, one of whom shall be a superintendent of schools, a doctor of dentistry, and another a doctor of medicine, each of whom shall be appointed upon mutual agreement by the governing bodies of the political subdivisions concerned, and, in the case of disagreement, by the state board of health. Members of a district board of health shall be appointed to hold office for a term of one (1), two (2), three (3), four (4), five (5), six (6) and seven (7) years respectively, after which the appointments shall be made for a term of seven (7) years. Vacancies occurring in the district board of health as a result of death, resignation, the termination of office, or for other reasons, shall be filled by appointing body or bodies, as outlined herein above, for the remainder of the term so vacated.

Members.

Terms.

Vacancies, how filled.

Office and equipment.

The district board of health shall designate the location and provide the office for the district health department and furnish it with the necessary equipment.

Meetings.

Meetings of the district board of health shall be held quarterly at such place as is designated by the board or upon call by the district health officer or the secretary of the state board of health. Members of the district board of health shall serve without compensation but shall be entitled to payment for travel and other necessary expenses incurred while attending meetings of the board of health;

Compensation and expense of members.

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provided that in no instance shall travel expenses be paid in excess of five (5c) cents per mile nor subsistence be paid in excess of five ($5.00) dollars per diem.

Full-time county and health officers —personnel— qualifications— how employed.

Section 7. **Full-time County and District Health Officers, Personnel, Qualifications, How Employed.** Full-time county and district boards of health shall, with the approval of the state board of health, employ a full-time county or district health officer, whose term of office shall be four (4) years, and such other personnel as are needed to efficiently carry on the work of the department. All such personnel employed shall be subject to the rules and regulations of the joint Montana merit system council and shall meet such qualifications as are specified under their respective classifications.

Employment of health officers from without state, when.

In the event health officers who are trained in the field of public health cannot be obtained in the State of Montana, the state board of health may recommend for appointment health officers who shall meet the above qualifications and who may be employed from without the state. Any health officer who shall be employed from without the State of Montana shall be a graduate of an accredited medical school and shall be eligible for license to practice medicine within the state.

Minimum personnel.

Section 8. **Minimum Personnel.** The minimum personnel to be employed by a full-time county or district health unit shall consist of a health officer, a clerk, a sanitary inspector and at least one public health nurse for each county participating in the maintenance of a health unit.

Rules and regulations.

Section 9. **Rules and Regulations.** Full-time county and district boards of health may enact such rules and regulations pertaining to the prevention of disease and the promotion of public health in the area over which such respective boards have jurisdiction, but in no instance shall such rules and regulations be less effective than, nor in conflict with, rules and regulations promulgated by the state board of health.

Indigent sick.

Section 10. **Indigent Sick.** In no instance shall a full-time county or district health officer be required to act as physician to the indigent in counties or cities under his jurisdiction. Upon recommendation of the county commissioners to the county or district boards of health he may be placed in supervisory charge of the communicable dis-

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ease hospitals and such clinics as may be maintained by the county or cities coming under his jurisdiction.

Section 11. **Participation by Official and Non-official Agencies in Maintenance of Full-time County or District Health Units.** Municipalities, school boards and other official or non-official agencies shall be permitted to contribute funds toward the support and maintenance of full-time county or district health units but all public health activities carried out through the use of funds so contributed shall be under the direction of the full-time county health officer.

Participation by officials and non-official agencies.

Section 12. **Finances.** The county or district boards of health shall submit to the tax levying authorities an annual budget, at least two weeks prior to the date specified by law for setting up official budgets. Funds for operation of full-time health departments shall be derived from the general fund of participating agencies, provided, however, if the general fund is insufficient to meet the approved budget, a levy, not to exceed one (1) mill, may be made on the assessed valuation in addition to all other taxes allowed by law to be levied on such property.

Finances.

Section 13. **Penalty.** Violation of any of the provisions of this act or of the rules and regulations authorized or outlined herein shall constitute a misdemeanor, and any person adjudged guilty thereof in a court of competent jurisdiction shall be punished by a fine of not less than ten ($10.00) dollars nor more than five hundred ($500.00) dollars for each offense or imprisonment in the county jail not exceeding ninety (90) days.

Penalty for violation of act.

Section 14. **Repeal.** Nothing in this act shall be construed as repealing any existing law, statute, rule or regulation relating to the protection of the public health not in conflict with or inconsistent with this act.

Repeal.

Section 15. **Invalidity.** If any section, subsection, sentence, clause or phrase of this act is, for any reason, held to be unconstitutional, or in conflict with any other section, part, or provision of this act, then the decision of the court shall affect only the section, subsection, sentence, clause or phrase so declared to be unconstitutional or in conflict, and shall not affect any other section, part, or provision of this act. The legislature hereby declares that it would have passed this act and each other section, subsec-

Separability.

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tion, sentence, clause and phrase hereof irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases to be declared unconstitutional.

Approved March 5, 1945.

CHAPTER 172

An Act for the Accumulating and Providing of Post-war funds by Cities and Towns for the Construction, Improvement, Repair and Maintenance of Public Streets, Avenues, Alleys and Ways Following the Date Proclaimed As the Termination of the Existing War Emergency; Authorizing the City or Town Council or Commission to Levy a Special Tax of Not Exceeding Five (5) Mills During Each of the Two Years Beginning July 1, 1945 and July 1, 1946, Against the Taxable Property in the City or Town for the Purpose of Accumulating and Providing Funds for Such Purposes; Providing for the Placing of the Proceeds of Such Tax Levies in a Special Street Fund; Providing for the Transfer to Such Fund of Unexpended and Unappropriated Funds in the Street Fund; Providing for the Budgeting of Expenditures to Be Made from Such Special Street Fund; and Providing the Time and Manner in Which Such Special Street Fund May Be Expended.

Be it enacted by the Legislative Assembly of the State of Montana:

Special tax by cities and towns to provide post-war funds authorized.

Section 1. For the purpose of accumulating and providing post-war funds for the construction, improvement, repair and maintenance of public streets, avenues, alleys and ways following the date proclaimed by the president as the termination of the existing war emergency, or following the date specified by congress as the date of such termination, the council or commission of each city and town in this state may, in their discretion, levy and cause to be collected, during each or either of the fiscal years beginning July 1, 1945 and ending June 30, 1946, and beginning July 1, 1946 and ending June 30, 1947, a special tax upon the taxable property in the city or town of not more than five (5) mills on the dollar, which shall be payable to the city or town treasurer with other taxes, which levies shall be in addition to all other levies now authorized by law to be made for street purposes. All moneys derived from such levies shall

Amount of levy.

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be placed in a special street fund and shall be kept separate from all other street fund moneys. Special street fund.

Section 2. The council or commission of each city or town may, in their discretion, at the close of each of the fiscal years ending June 30, 1945, June 30, 1946, and June 30, 1947, transfer to such special street fund any unexpended and unappropriated funds remaining in the city or town street fund, over and above the amount set apart and appropriated as a reserve for the then current fiscal year. Transfer of unexpended funds in street fund.

Section 3. No expenditures for any purpose whatever shall be made from such special street fund until after the date proclaimed by the president or by congress as the date of the termination of the existing war emergency. When such date has been proclaimed, either by the president or by congress, the city or town council or commission of any city or town having such fund may thereafter provide for the expenditure thereof for the purpose of constructing, improving, repairing and maintaining the public streets, avenues, alleys, and ways of the city or town; provided that no expenditure in excess of ten thousand dollars ($10,000.00) for any single purpose as defined in Section 4630.2, Revised Codes of Montana, 1935, shall be made from such fund without the approval of a majority of the electors of the city or town voting on the question of such expenditure at an election to be provided by law. Expenditures from special fund, when. For what purpose. Approval of electors required, when.

Section 4. Immediately after termination of the existing war emergency the council or commission of any city or town having such special street fund shall adopt a budget making appropriations therefrom for the construction, improvement, repair and maintenance of the public streets, avenues, alleys and ways in the city or town for the remaining portion of the then current fiscal year, notice thereof being given, hearing thereon had and such budget adopted in manner provided for emergency budgets by Section 5083.8, Revised Codes of Montana, 1935, as amended by Chapter 53, Session Laws, 1943; for each fiscal year thereafter when any moneys are to be expended therefrom, the city or town budget shall contain and set forth in the annual budget a separate section as a budget for such special street fund, and all of the provisions of the city budget law shall apply thereto; provided, however, that at any time after the close of the fiscal year ending June 30, 1947, the council or commission may in their discretion, instead of Budget required.

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providing a separate budget for the expenditure of any moneys then in such special fund, transfer the same to the street fund.

Effective date.

Section 5. This act shall be in full force and effect on and after its passage and approval.

Approved March 5, 1945.

CHAPTER 173

An Act to Provide for Protection and Conservation of Range, Farm and Forest Resources, Prevention of Soil Erosion, Rural Fire Control Under Authority of Boards of County Commissioners, Appointment of County Rural Fire Chiefs and District Rural Fire Chiefs, Organization of Rural Fire Control Crews, Appropriation of Funds from the General Fund of the County or to Levy a Tax, and to Enter Into Cooperative Agreements for Fire Control.

Be it enacted by the Legislative Assembly of the State of Montana:

Protection of range and other stated objectives—authority of county commissioners.

Section 1. For the purpose of protection and conservation of range, farm and forest resources, and of the prevention of soil erosion, the respective boards of county commissioners are hereby authorized to perform the functions hereinafter provided.

Functions of boards of county commissioners.

Section 2. **Functions of the Board.** The functions of the respective boards of county commissioners with respect to rural fire control shall be to carry out the specific authorities and duties hereinafter imposed.

Rural fire control crews.

(1) To provide for the organization of volunteer rural fire control crews;

County and district rural fire chiefs.

(2) To appoint a county rural fire chief and such district rural fire chiefs, subject to the direction and supervision of the county rural fire chief, as they may deem necessary. The county rural fire chief shall be a regular county officer, who in the opinion of the board is the best qualified to perform the duties of this office and who shall serve without additional compensation for the duties hereby imposed. All district fire chiefs shall serve without compensation;

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Co-operation with federal, state and other agencies.

(3) Boards of county commissioners, acting pursuant to this act, may cooperate with federal, state and other fire protection agencies, including boards of county commissioners of adjoining counties in providing means and methods of safeguarding the range, farm and forest lands within the state and in preventing fire nuisance thereon.

Powers of boards— establishment of fire seasons.

Section 3. **Powers of Board.** Boards of county commissioners may in their discretion establish fire seasons annually during which no person shall ignite or set any forest fire, or slash burning fire, or land clearing fire, or debris burning fire, or any open fire, within any forest, range or crop lands, subject to the provisions of this act, without having obtained an official written permit to ignite or set such fire from a county rural fire chief or from a district rural fire chief authorized by the board to issue such permits for such lands;

Violation made a misdemeanor.

(2) Any person who shall ignite or set any forest fire, or slash burning fire, or land clearing fire, or debris burning fire, or any open fire, within any forest, range or crop land subject to the provisions of this act without first having obtained a written permit to ignite or set such fire shall be guilty of a misdemeanor;

Training of voluntary urban fire crews.

(3) To augment rural crews in case of serious emergency the boards may provide for the organization and training of voluntary urban fire crews to be used in rural areas;

Authority of fire chiefs to enter private property.

(4) Any county rural fire chief and/or district rural fire chief may enter private property either with or without fire control crews for the purpose of suppressing fires, and are exempt from any damage resulting from such activity;

Appropriation by county commissioners authorized, for what purposes.

(5) The board is authorized to appropriate from the general fund of the county not to exceed twenty-five hundred dollars ($2500) per year for the purchase, care and maintenance of fire fighting equipment, or for the payment of wages to skilled operators of heavy mechanized equipment in the suppression of fires when deemed necessary; or if the general fund is budgeted to the full limit, the board may at any time fixed by law for levy and assessment of taxes levy a tax at such rate as in their judgment will be necessary to raise such needed sum not to exceed twenty-five hundred dollars ($2500).

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Lands to which act is applicable.

Section 4. **Lands to Which Applicable.** The provisions of this act are not applicable to any organized forest protection district or fire district defined in Chapter 128, Laws of 1939, as amended by Chapter 141, Laws of 1941 or any organized fire protection district organized and operating under other legal authority. This act shall apply to all lands not protected by federal, state, municipal or private protective agencies organized under the laws of the State of Montana.

Repealing clause.

Section 5. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 5, 1945.

CHAPTER 174

An Act Authorizing the Purchase for Public Investment of Debentures Issued Pursuant to the Provisions of Chapter 39 of the Laws of the Twenty-ninth Legislative Assembly of the State of Montana, and Providing That Such Debentures May Be Accepted As Security for the Repayment of Deposits of Public Moneys.

Be it enacted by the Legislative Assembly of the State of Montana:

Purchase of debentures issued pursuant to Chap. 39, laws of 1945, by state treasurer.

Section 1. The state treasurer may, with the approval of the state board of examiners and other officials whose approval is required by law for the investment of public funds, purchase debentures issued pursuant to the provisions of Chapter 39 of the Laws of the twenty-ninth legislative assembly of the State of Montana, for public investment on a competitive basis with any other bidders.

Acceptance of such debentures, as security by public officials.

Section 2. All debentures issued pursuant to the provisions of Chapter 39 of the Laws of the twenty-ninth legislative assembly of the State of Montana, may be accepted at their par value by all public officials of the State of Montana, as security for the repayment of all deposits of public moneys of the state or of any county, municipality or public institution thereof, and as security for the faithful performance of any obligation or duty to guarantee the performance of which obligation or duty such officials are now authorized by law to accept deposits of the bonds of this state or of the United States of America.

Approved March 5, 1945.

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CHAPTER 175

An Act to Provide for the Creation of a Commission On Uniform State Laws and the Appointment of Commissioners Thereto.

Be it enacted by the Legislative Assembly of the State of Montana:

Creation of commission on uniform state laws—members and terms.

Section 1. **Appointment of Commission.** A commission is hereby created to be known as the commission on uniform state laws which shall consist of three (3) recognized members of the bar, or members of the faculty of the law school of the state university of Montana, who shall be appointed by the governor for terms of four years each, or until their successors are appointed, and in addition thereto any residents of this state who because of long service in the cause of the uniformity of state legislation shall have been elected life members of the national conference of commissioners on uniform state laws.

Vacancies, how filled.

Section 2. **Appointments to Fill Vacancies.** Upon the death, resignation, failure or refusal to serve of any appointed commissioner, his office becomes vacant; and the governor shall make an appointment to fill the vacancy, such appointment to be for the unexpired term of the former appointee.

Meeting and organization.

Section 3. **Meeting and Organization.** The commissioners shall meet at least once in two years and shall organize by the election of one of their number as chairman and another as secretary, who shall hold their respective offices for a term of two years and until their successors are elected.

Duties of commissioners.

Section 4. **Duties of Commissioners.** Each commissioner shall attend the meeting of the National conference of commissioners on uniform state laws, and both in and out of such national conference shall do all in his power to promote uniformity in state laws, upon all subjects where uniformity may be deemed desirable and practicable; said commission shall report to the legislature at each regular session, and from time to time thereafter as said commission may deem proper, an account of its transactions, and its advice and recommendations for legislation. It shall also be the duty of said commission to bring about as far as practicable the uniform judicial interpretation of all uniform laws.

Approved March 5, 1945.

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CHAPTER 176

An Act to Amend Section 1 of Chapter 59 of the Laws of Montana 1943, Relating to the Inspection of Livestock Before Removal from Any County in the State; Repealing All Acts in Conflict Therewith and Stating Effective Date of Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Chap. 59, laws of 1943, amended.

Section 1. That Section 1 of Chapter 59 of the Laws of 1943 of the State of Montana be and the same is hereby amended to read as follows:

Inspection of livestock.

"Section 1. Except as in this act otherwise provided, it shall be unlawful to remove or cause to be removed from any county in this state any cow, ox, bull, stag, calf, steer, heifer, horse, mule, mare, colt, foal or filly, by means of any railroad car, motor vehicle, trailer, horse-drawn vehicle, boat or in any manner whatsoever unless such animal shall have been inspected for brands by a state stock inspector or deputy state stock inspector and certificate of such inspection shall have been issued in connection with and for the purpose of such transportation or removal as in this act provided. Such inspection must be made in daylight.

Sale without previous inspection unlawful.

It shall be unlawful to sell or offer for sale *at a livestock market* any *cow, ox, bull, stag, calf, steer, heifer, horse, mule, mare, colt, foal or filly* originating within any county in the State of Montana in which a livestock market is maintained, until such animal has been inspected for marks and brands by a state stock inspector, as in this act provided.

Removal of animals from public market without previous inspection unlawful.

It shall be unlawful to remove or cause to be removed any *cow, ox, bull, stag, calf, steer, heifer, horse, mule, mare, colt, foal or filly* from the premises of any *livestock* market in this state unless such animal shall have been inspected for marks and brands by a state stock inspector and an inspection certificate for such animal shall have been issued in connection with and for the purpose of such removal from the premises of such livestock market, as in this act provided.

Possession and exhibition of certificate of inspection.

The person in charge of any such cow, ox, bull, stag, calf, steer, heifer, horse, mule, mare, colt, foal or filly being removed from any county in this state, where inspection thereof is required by this act, shall have in his possession

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the certificate of inspection issued in connection therewith, and shall exhibit the same to any sheriff, deputy sheriff, constable, state stock inspector or deputy state stock inspector at the request of either of them.

Application of section of act.

The provisions of section 1 of this act shall not apply, (a) to any *cow, ox, bull, stag, calf, steer, heifer, horse, mule, mare, colt, foal or filly* being transported through the state in interstate commerce without leaving the custody of the carrier; (b) to any *cow, ox, bull, stag, calf, steer, heifer, horse, mule, mare, colt, foal or filly* transported by railroad consigned to and which, without leaving the custody of the carrier, does reach a market at which the livestock commission of the State of Montana regularly maintains a stock inspector, and for which animal a loading tally has been filed by the shipper with the carrier as provided in Section 3341 of the Revised Codes of Montana of 1935; (c) to any *cow, ox, bull, stag, calf, steer, heifer, horse, mule, mare, colt, foal or filly* when driven *on the hoof and not moved by means of any motor vehicle, trailer, horse-drawn vehicle, railroad car or boat,* by the owner from one county to the *next adjoining county within the State of Montana on to land owned or controlled by the owner of livestock so moved* for the purpose of pasturing, feeding or changing the range thereof, nor to any *cow, ox, bull, stag, calf, steer, heifer, horse, mule, mare, colt, foal or filly* when driven *on the hoof and not moved by means of any motor vehicle, trailer, horse-drawn vehicle, railroad car or boat,* from one county *to the next adjoining county within the State of Montana* by the owner thereof *or his agent* when such animal is used in the ordinary conduct of his business and such person has been the owner of said animal to be removed for at least three (3) months."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect on and after July 1, 1945.

Approved March 5, 1945.

CHAPTER 177

An Act Amending Section 5249 of the Revised Codes of the State of Montana 1935 As Amended by Section 1 of Chapter 23 of the Laws of the Twenty-fifth Legislative

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Assembly Relating to the Form of Bonds and Warrants and the Rate of Interest On Bonds and Warrants and Fixing the Rate At Not to Exceed Six (6%) Per Cent Per Annum; to Eliminate Provisions As to Contract Payments in Bonds or Warrants.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 5249, R. C. 1935, as amended, further amended.

Section 1. That Section 5249 of the Revised Codes of Montana of 1935 as amended by Section 1 of Chapter 23 of the Laws of the twenty-fifth legislative assembly be and the same is hereby amended to read as follows:

"Section 5249. **Form of Bonds and Warrants.** All cost and expenses incurred in the construction of any improvements specified in this act, in any improvement district, shall be paid for by special improvement district bonds or warrants. Such bonds or warrants shall be drawn in substantially the following form:

Form of bonds and warrants.

District No.....
United States of America,
State of Montana

Warrant or
(Bond No.....) Dollars
$.....

Interest at the rate of.....per cent per annum, payable annually.

Special improvement district coupon warrant or bond
....., Montana

Issued by the city of....., Montana

The treasurer of the city of....., Montana, will pay to bearer, the sum of..... dollars as authorized by resolution No.....as passed on the.....day of....., 19....., creating special improvement district No.....for the construction of the improvements and the work performed as authorized by said resolution to be done in said district, and all laws, resolutions, and ordinances relating thereto, in payment of the contract in accordance therewith. The principal and interest of this warrant (or bond) are payable at the office of the city treasurer of....., Montana.

This warrant (or bond) bears interest at the rate of .....per cent per annum from the day of registration of this warrant (or bond), as expressed herein, until the

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date called for redemption by the city treasurer. The interest on this warrant (or bond) is payable annually on the first day of.....in each year, unless paid previous thereto, and as expressed by the interest coupons hereto attached, which bear the engraved facsimile signature of the mayor and city clerk.

This warrant (or bond) is payable from the collection of a special tax or assessment which is a lien against the real estate within said improvement district, as described in said resolution hereinbefore referred to.

This warrant (or bond) is redeemable at the option of the city at any time there are funds to the credit of said special improvement district fund for the redemption thereof, and in the manner provided for the redemption of the same.

It is hereby certified and recited, that all things required to be done, precedent to the issuance of this warrant (or bond), have been properly done, happened and been performed, in the manner prescribed by the laws of the State of Montana and the resolutions and ordinances of the city of....., Montana relating to the issuance thereof.

(seal)

Dated at....., Montana, this.....day of....., 19.....

City of....., Montana

By:....., mayor

....., city clerk

Registered at the office of the city treasurer of..... ....., Montana, this.....day of....., 19.....

....., city treasurer.

Other specifications.

And the same shall be drawn against the special improvement district fund created for the district, and shall bear interest at a rate not exceeding six (6%) per cent per annum, from the date of registration until called for redemption or paid in full, interest to be payable annually on the first day of January of each year, unless the council prescribes another date. Such warrants (or bonds) shall be signed by the mayor and clerk, and shall bear the corporate seal of the city. They shall be registered in the office of the clerk and treasurer, and if interest coupons be attached thereto, they shall also be so registered and shall bear the

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signature of the mayor and clerk; provided, however, that said coupons may bear the facsimile signature of said officers in the discretion of the city council. Said bonds shall be in denominations of one hundred ($100.00) dollars or fractions or multiples thereof, and may be issued in installments, and may extend over a period not to exceed twenty (20) years. Such warrants (or bonds) shall be redeemed by the treasurer when there are funds in the special improvement district fund against which said warrants (or bonds), on presentation of the coupons belonging thereto, and any funds remaining shall be applied to the payment of the principal and the redemption of the warrants (or bonds) in the order of their registration; and provided, further that whenever there are any funds in any special improvement district fund, after paying the interest on such warrants (or bonds) drawn against said fund, the treasurer shall call in for payment outstanding warrants (or bonds), which, together with the interest thereon to the date of redemption, will equal the amount of said fund on that date, which date shall be fixed by the treasurer, who shall give notice by publication once in a newspaper published in the city, or at the option of the treasurer, by written notice to the holder or holders of such warrants (or bonds) if their address be known, of the number of warrants (or bonds) and the date on which payment will be made, which date shall not be less than ten (10) days after the date of publication or of service of notice, and on which date so fixed, interest shall cease."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 5, 1945.

CHAPTER 178

An Act Amending Section 5250 of the Revised Codes of the State of Montana 1935, Relating to the Method of Payment Under Contracts for Special Improvements to Eliminate Provisions That Contract Payments May Be Made in Bonds and Warrants, and to Provide That Bonds or Warrants Shall Be Sold At Not Less Than Face Value, and Providing That the Provisions of Sections 5278.13, 5278.14 and 5278.15 Shall Apply to, Govern and Control the Manner and Method of Giving Notice of and the Sale of Such Bonds or Warrants.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 5250 of the Revised Codes of Montana of 1935 be and the same is hereby amended to read as follows:

Sec. 5250, R. C. 1935, amended.

"Section 5250. **Payments Under Contracts.** The city or town council *shall* provide for making payments for improvements in any special improvement district *by* the following *method:*

Payments under contracts.

The city or town council *shall* sell bonds or warrants issued under the provisions hereof, in an amount sufficient to pay that part of the total cost and expense of making the improvement which is to be assessed against the property within the district, to the highest and best bidder therefor for cash, *for not less than the face value of such bonds, or warrants, and including interest thereon,* and *shall* use the proceeds of such sale in making payment to the contractor, or contractors, and such payment may be made either, from time to time, on estimates made by the engineer in charge of such improvements for the city or town, or upon the entire completion of the improvements and the acceptance thereof by the city or town council. *The provisions of sections 5278.13, 5278.14 and 5278.15 with regard to the notice of sale, publication of notice and manner and method of selling bonds by cities and towns, insofar as the same are applicable thereto and not in conflict with the provisions of this section, shall apply to, govern and control the form of notice of sale, publication of notice and manner and method of selling such bonds or warrants.*"

Application of existing laws with regard to notice of sale, publication thereof and manner of sale.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved March 5, 1945.

CHAPTER 179

An Act Amending Section 5277.3 of the Revised Codes of the State of Montana 1935, Relating to Loans from Revolving Fund for Paying Improvement District Warrants, Authorizing and Providing for the Creation, Maintenance and Use of a Special Improvement District Revolving Fund in Any City or Town for the Purpose of Securing Prompt Payment of Special Improvement Dis-

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trict Bonds and Warrants and Interest Thereon Requiring a Levy of Taxes When Necessary for the Financial Requirements of Such Fund.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 5277.3, R. C. 1935, amended.

Section 1. That Section 5277.3 of the Revised Codes of Montana of 1935 be and the same is hereby amended to read as follows:

Loans from revolving fund for paying improvement district warrants.

"5277.3. **Loans from Revolving Fund for Paying Improvement District Warrants—Authorization by Electors.** Whenever any special improvement district bond or warrant, or any interest thereon, shall be, at the time of the passage of this act, or shall thereafter become due and payable, and there shall then be either no money or not sufficient money in the appropriate district fund with which to pay the same, an amount sufficient to make up the deficiency may, by order of the council, be loaned by the revolving fund to such district fund, and thereupon such bond or warrant or such interest thereon, or in case of such bonds or warrants due at the time of the passage of this act, such part of the amount due on such bond or warrant, whether it be for principal or for interest or for both as the council may in its discretion elect or determine, shall be paid from the money so loaned or from the money so loaned when added to such insufficient amount, as the case may require; provided, however, that the above provisions of section 5277.1, 5277.2 and 5277.3 of this code shall not apply to any district or districts heretofore created, unless and until, at an election, either the regular annual municipal election or a special election called by the council, a majority of the *electors whose names appear as the owners of property in the city or town on the last completed tax roll of the county in which the city or town is situated,* shall authorize the city or town council to proceed thereunder, such election to be called and conducted in the manner and under such regulations as the council may provide. At such election no person other than such qualified elector and taxpayer shall vote on said question, and a majority of those voting thereat shall be sufficient to determine, and shall determine, the question whether the council be authorized or not to proceed under sections 5277.1, 5277.2 and 5277.3 of this code.

Authorization by electors.

In connection with any public offering of special improvement district bonds or warrants, the city or town

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council may undertake and agree to issue orders annually authorizing loans or advances from the revolving fund to the district fund involved in amounts sufficient to make good any deficiency in the bond and interest accounts thereof to the extent that funds are available, and may further undertake and agree to provide funds for such revolving fund pursuant to the provisions of section 5277.2 by annually making such tax levy (or, in lieu thereof, such loan from the general fund) as the city or town council may so agree to and undertake, subject to the maximum limitations imposed by said section 5277.2, which said undertakings and agreements shall be binding upon said city or town so long as any of said special improvement district bonds or warrants so offered, or any interest thereon, remain unpaid."

Agreement to issue orders annually authorizing loans on advances from revolving fund.

Section 2. That all acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved March 5, 1945.

CHAPTER 180

An Act to Amend Section 4993, Revised Codes of Montana, 1935, As Amended by Chapter 5, Laws of 1939, Relating to the Platting, Surveying and Certifying Before Sale of Small Tracts and Requiring the Grantee in Deeds to Such Tracts to Present to the County Clerk at Time of Filing for Record a Plat or Map of the Legal Description of the Piece or Parcel Conveyed.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 4993, Revised Codes of Montana, 1935, as amended by Chapter 5, Laws of 1939, be, and the same is hereby amended to read as follows:

Sec. 4993, R. C. 1935, as amended, further amended.

"Section 4993. **Small Tracts Must Be Platted, Surveyed, and Certified Before Sale.** Any person who desires to subdivide and sell or transfer any tract of land in small tracts, such as orchard tracts, vineyard tracts, acreage tracts, suburban tracts, or community tracts, containing less than the United States legal subdivision of ten acres, must cause the same to be surveyed, platted, certified, and recorded according to the provisions of this chapter before any part or portion of the same is sold or transferred; ex-

Small tracts must be surveyed and platted before sale.

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cept that it will not be necessary to comply with the provisions of this chapter relating to parks and playgrounds, and such sales or transfers must be made by reference to the plat on file and the numbers of the lots and blocks. It is unlawful for any further sales to be made without a full compliance with the provisions of this chapter, and the surveying and platting of the whole tract, showing the lots sold before the filing of the plat; *provided further that the county clerk of any county shall not be required to file any deed for record, which conveyed, or purports to convey, a part of land or parcel of any such platted tract or tracts of less than the United States legal subdivision of ten acres, unless the person presenting such deed for record also delivers to such county clerk a plat or map which has been prepared by a surveyor or civil engineer, which plat or map shall show with particularity the legal description, and area of the land to be conveyed.*"

Deeds conveying such tracts, county clerk not required to record, when.

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 5, 1945.

CHAPTER 181

An Act Amending Section 5862 of the Revised Codes of Montana of 1935 Relating to the Adoption of Children.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 5862, R. C. 1935, amended.

Section 1. That Section 5862 of the Revised Codes of Montana, of 1935, be amended to read as follows:

Duty of judge to examine persons appearing and to secure report from division of child welfare.

"Section 5862. The judge must examine all persons appearing before him pursuant to the last section, each separately, *and in all cases where neither of the adopting parents are the natural parents of the child or children to be adopted, may, in his discretion, secure a report from a representative of the division of child welfare services of the state department of public welfare as to the condition and surroundings of the home of the proposed adoptive parents,* and if satisfied that the interests of the child will be promoted by the adoption, he must make out an order declaring that the child shall thenceforth be regarded and treated in all respects as the child of the person adopting."

Order.

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Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 5, 1945.

CHAPTER 182

An Act to Authorize the State of Montana to Become Indebted in the Sum of Two Million ($2,000,000) Dollars in Excess of the Constitutional Limitation of Indebtedness and Over and Above Any Bonded Indebtedness Heretofore Incurred or Created and for Which the State of Montana Is Now Obligated, for the Construction, Repair, and Equipment of Necessary Buildings, Other Permanent Improvements, Acquisition of Necessary Grounds Therefor for the Montana State Hospital for the Insane, and the Acquisition of Farm Lands to Be Used in Connection Therewith and for the Support Thereof; Providing for the Issuance of Bonds in the Name of the State of Montana As Evidence of Such Indebtedness and for the Sale Thereof, Prescribing the Form of Such Bonds and Providing for a Levy of An Annual Tax Sufficient to Pay the Principal Thereof and the Interest Accruing Thereon, and Providing for a Referendum of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Authorization of issue of state bonds no exceeding $2,000,000 in excess of constitutional limitation.

Section 1. That the legislative assembly of the State of Montana is hereby authorized and empowered to direct the state board of examiners to issue bonds in the name of the State of Montana in a sum not exceeding two million ($2,000,000) dollars in excess of the constitutional limitation of indebtedness and over and above any bonded indebtedness heretofore incurred or created and for which the State of Montana is now obligated, the money derived from the sale of said bonds to be used for the purpose of constructing, repairing and equipping necessary buildings, for other permanent improvements, and for acquiring necessary grounds therefor, at the Montana state hospital for the insane and for acquiring of such farm lands as may be necessary to be used in connection therewith and for the support thereof.

Purpose.

Expenditure of funds from bonds not limited to any certain site.

Provided, however, that nothing herein contained shall compel the expenditure of the funds derived from the sale of bonds, the issuance of which is authorized by a majority vote on this measure by the qualified electors of Montana,

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at any certain site; and provided further, that said funds may be used for the construction, repairing and equipping of buildings on any site at present owned or which may hereafter be acquired by the State of Montana for the establishment and maintenance of a state hospital for the insane, or separate units thereof.

Discretion of state board of examiners as to time and amounts of bond issue.

Section 2. Such bonds shall be issued from time to time by the state board of examiners at such times and in such amounts as may appear to said state board of examiners of the State of Montana in the exercise of its judgment and discretion to be for the best interests of the state and necessary for the erection, repair and equipment of necessary buildings, other permanent improvements, and acquisition of necessary grounds, at the Montana state hospital for the insane, and for acquiring of such farm lands as may be necessary to be used in connection therewith and for the support thereof.

Date, interest and other provisions relating to bonds.

Section 3. Each series of bonds provided for in this act shall be issued in such denominations as may be determined by the state board of examiners at the time the same are authorized to be issued under the provisions of this act and shall bear date as of the day of issuance thereof and shall become due and payable serially over a period of not to exceed ten (10) years from the date of issuance and shall bear interest at the rate of not to exceed four percent (4%) per annum payable semi-annually on such dates as may be determined and fixed by the state board of examiners, provided, however, that for each series of said bonds issued after the issuance of the first series thereof, the board of examiners shall so fix the interest paying dates that the interest thereon will become due and payable on the same date after the interest on the first bonds shall become due and payable, and in order so to do the state board of examiners may provide that the first interest shall be due and payable at a date less than six (6) months after the date of the issuance of such series.

Interest paying dates.

Where payable.

The bonds provided for in this act shall be payable at the office of the state treasurer of the State of Montana at Helena, Montana, or at the option of the holders thereof at the office of the fiscal agent of the State of Montana in the borough of Manhattan, city and state of New York, both as to interest and principal and shall be executed in the name of the State of Montana by the members of the state board

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of examiners under the great seal of the State of Montana. All of such bonds so issued shall mature at the expiration of ten (10) years from and after the date thereof and shall be callable at par plus accrued interest for redemption prior to maturity on any interest payment date on or after the expiration of five (5) years from the respective dates thereof at the option of the state board of examiners of the State of Montana in the manner set forth in the form of bond hereinafter provided.

Maturity.

Section 4. The board of examiners shall prescribe the form of such bonds, and bonds of each series shall bear upon their face the words: "State hospital for the insane bonds of the State of Montana" with a letter or figure to designate the series thereon and shall be executed by the members of the state board of examiners and the great seal of the State of Montana shall be affixed to each bond and the bonds shall be registered in the office of the state treasurer. Said bonds shall have interest coupons attached thereto covering the interest due semi-annually, which coupons shall be executed with facsimile signatures of all of the members of the state board of examiners and the signing of said bonds and coupons with facsimile signatures shall be recognized as sufficient execution on behalf of the State of Montana. The state board of examiners of the State of Montana is hereby authorized and directed to issue and sell such bonds as provided for in this act in such manner as they shall deem for the best interests of the state and the carrying out of the provisions of this act at such times within a period of ten (10) years from and after the approval of this act and in such amounts as the said state board of examiners shall from time to time determine necessary for the purposes herein provided. No bond provided for herein shall be disposed of for less than its par value.

Form of bonds.

Interest coupons.

Sale of bonds.

Section 5. All moneys derived from the issuance and sale of the bonds authorized by this act shall be paid into the state treasury and shall constitute a special fund for the construction, repair and equipment of necessary buildings and other permanent improvements, and the acquisition of necessary grounds therefor for the Montana state hospital for the insane and for the acquiring of farm lands used in connection therewith and for the support thereof as in the opinion of the board of examiners is necessary for the proper maintenance and support of the state hospital for the insane. Such moneys shall be expended only for the

Proceeds—special fund, for what purposes.

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construction, repair and equipment of necessary buildings, other permanent improvements, and the acquisition of necessary grounds therefor, including farm lands as may be necessary to be used in connection therewith and for the support thereof and shall be disbursed by the state treasurer on warrants properly drawn against such fund by the state auditor pursuant to the orders of the state board of examiners.

Tax levy.

Section 6. There shall be levied annually upon all property of the State of Montana subject to taxation an ad valorem tax upon each dollar of the taxable valuation of such property sufficient to pay the interest accruing on said bonds as such interest shall fall due, and the payment of the bonds as they serially become due, said levy, however, not to exceed one (1) mill per annum. The tax when collected by the county treasurers of the several counties of the state shall be by them accounted to and paid into the state treasury of the State of Montana, and by the state treasurer placed in the "state insane hospital bond interest and redemption fund" which fund shall be used exclusively for the payment of principal and interest on said bonds as the same become due.

State insane hospital bond interest and redemption fund.

Reference of act to electors for approval.

Section 7. There shall be a referendum on this act and the secretary of state is hereby required, and it is made his duty to submit this measure in accordance with section 2 of article 13 of the constitution of the State of Montana and all other provisions of the constitution and laws of the State of Montana applicable thereto to the people of the state for their approval or rejection at the general election to be held in November 1946. The official ballot used in said election shall have printed thereon the title of this act and below the same shall be printed the words:

Form of ballot.

☐ For the bond issue for state insane hospital bonds

☐ Against the bond issue for the state insane hospital bonds

Each elector shall designate his preference by marking an "X" in the square below the proposition for which such elector desires to vote. The votes cast for and against the law above proposed, shall be counted, returned, and canvassed, and the results shall be determined and declared in the manner provided by the general election laws of the state.

Canvass of votes.

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Section 8. The cost of the bonds issued under this act, fees, commissions, and compensation of the architect employed in the construction and to prepare plans shall be paid out of the proceeds of the bonds. Costs to be paid out of bond proceeds.

Section 9. If any parts of this act shall be declared by any court of competent jurisdiction to be unconstitutional such unconstitutionality shall not affect the validity of the remaining parts of this act. Severability of act.

Section 10. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Section 11. This act shall be in full force and effect from and after its passage and approval. Effective date.

Approved March 5, 1945.

CHAPTER 183

An Act to Provide for Rights of Dower in Deeds Made Prior to the Year 1900, and That a Presumption Shall Be Conclusive That a Person So Conveying Lands Was Single.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. When a deed to real property has been made, executed and acknowledged prior to the year 1900 by a grantor without recital in the body of the deed or acknowledgment as to whether or not the grantor is married or single, and the wife of such grantor, if any, not joining in the conveyance, or otherwise releasing or conveying her dower, the presumption shall be that the person conveying such land had no wife living at the date of such conveyance and that such land was conveyed free of all right of dower, inchoate or vested. Deeds made prior to 1900 —presumption that grantor had no wife living.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved March 5, 1945.

CHAPTER 184

An Act to Provide for the Codification and Recodification of the Laws of the State of Montana, Including the Revised Codes of Montana 1935 and the Laws of the

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Twenty-fourth Legislative Assembly 1935, Twenty-fifth Legislative Assembly 1937, Twenty-sixth Legislative Assembly 1939, Twenty-seventh Legislative Assembly 1941, Twenty-eighth Legislative Assembly 1943, Twenty-ninth Legislative Assembly 1945 and Thirtieth Legislative Assembly 1947 and of the Laws of Any Special Sessions of the Montana Legislative Assembly During the Period 1935-1947, As the Same May Be in Force At the Time of the Completion of Said Recodification; and to Provide for the Revision of the Laws and of the Codes of the State of Montana; and to Provide for the Appointment of a Code Commissioner by the Supreme Court of the State of Montana, and for the Appointment of An Advisory Board to Such Commissioner, Specifying the Powers and Duties of Each, and Fixing the Compensation of Each, and Providing for Their Quarters and Supplies, and to Provide Requirements in the Production of Said Revised Codes, and for the Completion Thereof, and for Report On Said Undertaking and Making An Appropriation Therefor, and Providing That This Act Shall Be Valid Notwithstanding Any Provisions of the Budget Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Appointment of code commissioner by supreme court authorized.

Section 1. The supreme court of the State of Montana is hereby authorized and directed to appoint, not later than the first day of July, 1945, a competent and qualified person as code commissioner, to compile, revise and codify and recodify all of the laws of the State of Montana of a permanent and general nature, including the Revised Codes of Montana 1935 and the Session Laws of the twenty-fourth, twenty-fifth, twenty-sixth, twenty-seventh, twenty-eighth, twenty-ninth and thirtieth legislative assemblies of the State of Montana, as the same may be in force and effect at the time of the final completion of said compilation and revision as herein directed, and also the session laws of any special session of the legislative assembly of the State of Montana that may have concluded its labors heretofore in the period 1935-1945 or that may be held prior to the date of said completion, including all initiative measures and all constitutional amendments adopted by the people, and all other acts and parts of acts which have not been repealed either by the legislative assembly or by the vote of the people of Montana, or the qualified electors among them,

What laws are to be compiled, revised and codified.

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and which have not been adjudged unconstitutional and void by the supreme court of the State of Montana.

Appointment of advisory board and its duties.

Section 2. The supreme court of Montana is further authorized and directed to appoint, not later than ten (10) days from and after the appointment of said code commissioner, and with his advice, an advisory board, to counsel, assist and with the justices of the supreme court, supervise said compilation, revision and codification, said advisory board hereby created to consist of three members of the bar of Montana, one of whom may, if possible, be a district judge, and one a member of the law faculty of the school of law of the university of Montana, who are found by the court to be competent, qualified, interested and ready to serve actively in consulting with, aiding and advising the said code commissioner in the complete and proper discharge of his duties to the end of accomplishing the revision and codification of the laws of Montana herein ordered, in the most thorough, accurate and orderly manner possible, and to produce revised codes in text and format of ready utility to the legislative assembly, the courts, legal profession, public officers, and the citizens of the state. Said advisory board shall meet in session with said code commissioner not less than four (4) times in the year 1945, and not less than four (4) times in the year 1946, each session to be of not more than twelve (12) days' duration at each of said times. In the event of vacancy in the office of code commissioner or on the advisory board, the supreme court shall appoint a successor possessing the same qualifications, and from the same group when the vacancy occurs on the advisory board. The code commissioner and the advisory board members shall subscribe and file the constitutional oath of office and organize promptly. All of said appointees may be referred to as commissioners. Said officials shall invite comments from members of the legislative assembly, the bar, and public officers of Montana, and its subdivisions as to defects to be remedied, or on other matters related to the undertaking.

Meetings with code commissioner.

Vacancies, how filled.

Oath of office.

Comments to be invited.

Laws to be designated revised codes of Montana 1947.

Section 3. The laws to be revised, compiled and arranged by said code commissioner and advisory board shall be known and designated as the Revised Codes of Montana 1947. Said revision, compilation and codification of laws, when completed and certified to by said code commissioner and said advisory board, shall constitute the official and authorized codes of law of the State of Montana and may,

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How cited.

for all purposes, be cited by the name "Revised Codes of Montana, 1947", or by the abbreviation "R. C. M., 1947."

Contents of compilation.

The compilation of said codes shall contain an historical statement on the origin, development and relationship of the laws, compiled statutes and codes of Montana, together with a table of cases of the supreme court of Montana dealing with the history, validity, and effect of any codification. In addition it shall also contain a copy of the magna charta, the declaration of independence, the treaty of purchase and cession of Louisiana territory, the constitution of the United States, as amended, the organic act of the territory of Montana, the enabling act, the constitution of Montana, and the laws of congress relating to the authentication of laws and records, together with the indices hereinafter required.

Form, arrangement and indexes.

The commissioner, advisory board, and justices of the supreme court shall determine the form and arrangement of the codes and shall make a new, complete, thorough and accurate working index of the contents of each part or volume thereof, and, in addition, a consolidated index. The index must be alphabetically arranged, following as near as possible the standard alphabetical classification of law subject titles, and shall be carefully and thoroughly cross-indexed, and the index shall be of sufficient particularity to refer clearly to the subject matter of each section contained in such codes and the general laws. Ample cross-references shall also be supplied but shall not be used to eliminate detailed direct indexing.

Cross-references.

Historical notes.

Section 4. **Historical Notes.** It shall be the duty of the code commissioner and said advisory board to include in the Revised Codes of Montana 1947, under each section, a note clearly printed, showing original date of enactment of said section and its complete legislative history; and the said revisors may use all the historical notes which now appear in the Revised Codes of Montana 1935, and which are shown to be true, and to supplement the same. References to comparable sections of the codes of California from which said sections are taken shall show the original section of the California codes applicable and, also, the comparable section under the latest official revision of the codes and laws of the state of California.

References to codes of California.

Tables of laws and acts of congress.

The compilation shall also contain tables of special, private or local laws relating to subjects other than claims and a table of acts of congress relating, specifically to the State

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of Montana, its territory, streams and domain, and a table of any law or laws of the state found to have been omitted from any prior codification, and believed to be in force.

Annotations to show decisions of supreme court of Montana construing sections of constitution and general laws, and of constitution of the United States.

Section 5. **Annotations.** Said codes shall be annotated so as to show by a proper and appropriate reference all the decisions of the supreme court of Montana, construing, commenting upon or in any way referring to the sections of the constitution of the United States, the constitution of Montana and the sections of said codes and the general laws of Montana, up through the 30th day of June 1947, and said annotations shall appear in chronological order and clearly show the year of the said decisions of the supreme court; and the said annotations shall also include the decisions under any other statute or statutes similar to the section under which annotations are made. Such annotations shall contain the names of the plaintiffs and defendants, the number of the volume and page of the report containing such decisions in the Montana reports or other reports and also a brief but clear statement of the holding of the case, with particular reference to the particular section of the codes, laws or constitutions. So far as possible, the code commissioner shall include appropriate references to the opinions of the attorney general which construe or apply provisions of the law. The index volume shall also contain a table of parallel section numbers for the Revised Codes of 1895, 1907, 1921, 1935 and 1947, and a table of session laws covering all sessions of the assembly from 1895 to date, and a table showing the number, date and duration of sitting and place of sitting of each territorial legislature and of each legislative assembly, for Montana.

Opinions of the attorney general.

Authority of commissioner and commission as to revision, arrangement and recommendation.

Section 6. **Authority of Commissioner and Commission as to Revision, Arrangement and Recommendations.** In compiling said codification and revision of the laws of Montana hereby authorized, the said commissioner, advisory board and justices shall have authority to determine the form and arrangement of the codes, to rearrange the parts, chapters and sections thereof, and to make appropriate and descriptive designations, numbers and titles for such parts, chapters and sections.

The commissioners shall note all inconsistencies, ambiguities, omissions, contradictions and imperfections in the several sections of the codes and shall prepare new sections for the purpose of correcting and reconciling all inconsis-

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tencies, ambiguities, omissions, contradictions and imperfections, and shall submit such proposed new sections by way of bills to be introduced during the thirtieth legislative assembly, and also make such other and further proposals by way of prepared bills, as the said commissioners shall deem necessary, proper, or advisable, including proposals for new matter, or changes in the law, or adopting of new laws, including laws prepared by the commissioners, or uniform laws prepared by the commissioners on uniform laws. The commissioners shall submit a printed report of their work, together with recommendations to the justices of the supreme court, the governor, and the members-elect of the thirtieth legislative assembly before December 15, 1946.

Bills to be prepared for purpose of correcting and reconciling defects and adding new matter.

Report and recommendations by commissioners.

Authority of commissioners to correct, to what extent.

The commissioners shall have authority to correct the spelling, punctuation and grammatical construction, wherever required by good literary practice. The commissioners shall have authority to paragraph the material in code sections, in accordance with the rules of paragraphing and in order to make more easily readable, sections now appearing in solid, consecutive type lineage. This act shall not be construed as giving the said commissioner and the said advisory board the power or authority to change, modify or make any law or laws, but only as giving power and authority to complete a full revision and compilation of the laws of the State of Montana, and to make the recommendations herein provided.

Limitation.

Consultation with justices of the supreme court.

Section 7. The commissioner and the advisory board shall at all times consult the justices of the supreme court of Montana and make available to said justices their plan of work, the progress of the work, proposed changes where permitted hereby, plan of arrangement and section numbering of the codes, indexing, number of volumes and proposals for publication of the volumes and binding thereof.

Date fixed for completion of work.

The code commissioner and the said advisory board shall complete the entire work required by this act and possible of completion by December 31, 1946, on such date. Any work necessarily to be performed after such date, and to include the laws passed and approved during the thirtieth legislative assembly or any special session of the assembly during the two-year period 1945 and 1946, shall be the subject of legislation by the thirtieth legislative assembly, but the appointment of the code commissioner and the advisory board shall continue until and throughout the final comple-

Work uncompleted.

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tion and publication of the codes under such further terms as the thirtieth legislative assembly shall prescribe.

Facilities to be furnished to commissioner and advisory commission.

Section 8. The secretary of state of the State of Montana shall furnish to the code commissioner and the advisory commission, without charge, four (4) sets each of the Revised Codes of 1895, the Revised Codes of 1907, the Revised Codes of 1921, and of the Revised Codes of 1935, and four (4) sets of all the session laws of the State of Montana, bound or unbound, and two (2) sets, bound or unbound, of the Montana reports. The state board of examiners shall furnish the code commissioner and said advisory commission with adequate and well-equipped offices for their work adjacent to the state law library, and said commissioners shall have unobstructed access to the state law library, and the books and records of the office of secretary of state which may be necessary or convenient to the prosecution of the work. The said commissioners shall also be provided with the necessary paper, stationery and cards, typewriters, and dictating equipment, filing cases, cabinets and boxes, as shall be necessary, provided that all thereof shall remain the property of the State of Montana and shall be returned to the state board of examiners upon completion of the work. The commissioners shall have power to employ such clerical and stenographic assistance as may be necessary.

Type, page arrangement and plan of codes of other states to be examined.

The code commissioner and the advisory board shall make careful examination of the codes of several states with a view to selecting type, page arrangement and plan, indexing and outlining, binding of volumes, size and convenience of handling volumes, which shall result in the best possible production of codes for Montana.

Compensation of commissioner and of commission members.

Section 9. The code commissioner shall be paid for the performance of the work herein specified with the sum of five thousand ($5,000.00) dollars for each of the years 1945 and 1946, and said payments shall be made monthly and prorated from the time of the appointment of the commissioner until the payment on December 31, 1946. The members of the advisory commission shall be paid a per diem of twenty-five ($25.00) dollars per day plus the necessary and reasonable travel, hotel and other expenses directly incidental to the performance of their duties, and their claims therefor shall be paid through the state board of examiners, on approval by the chief justice of the supreme court of Montana, or, in his absence, any justice of said court, as presented from time to time.

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Appropriation.

Section 10. There is hereby appropriated out of any money of the state treasury, not otherwise appropriated, the sum of fifteen thousand ($15,000.00) dollars for the fiscal year beginning July 1, 1945 and ending June 30, 1946 and the sum of fifteen thousand ($15,000.00) dollars for the fiscal year beginning July 1, 1946 and ending June 30, 1947, for the purposes of this act. This appropriation shall be deemed a supplemental appropriation within the meaning of the budget act, and shall be valid upon the final passage and approval of this act by the legislative assembly, any provisions of the budget act or other restrictions to the contrary notwithstanding.

Effective date.

Section 11. This act shall be in full force and effect from and after its passage and approval.

Approved March 5, 1945.

CHAPTER 185

An Act Amending Section 5736 of the Revised Codes of Montana, 1935, As Amended by Chapter 65 of the Session Laws of Montana, 1937, Defining the Term Incurable Insanity As Applied in Causes for Divorce, and Amending All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 5736, R. C. 1935, as amended, further amended.

Section 1. That Section 5736 of the Revised Codes of Montana, 1935, as amended by Chapter 65 of the Session Laws of Montana, 1937, be, and the same is hereby amended to read as follows:

Causes for divorce.

"Section 5736. **Causes for Divorce.** Absolute divorces, or separations from bed and board, or decrees for separate maintenance, may be granted for any of the following causes:

1. Incurable insanity;
2. Adultery;
3. Extreme cruelty;
4. Wilful desertion;
5. Wilful neglect;
6. Habitual intemperance;
7. Conviction of felony."

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Section 2. That section 5736 be amended by adding thereto a section to be known as 5736.1. Sec. 5736 amended.

"Section 5736.1. **Incurable Insanity.** Incurable insanity may be established on the testimony of competent physicians that such person is beyond medical and surgical remedy, providing, however, that no divorce shall be granted on the grounds of incurable insanity unless such insane person has been regularly confined in *any* state *or private* institution for *the permanent care of* insane persons for at least five years next preceding the commencement of the action for divorce. *In prosecuting a divorce upon this ground, a copy of the complaint filed and summons issued in said action* shall be served in such manner as the court may direct upon the nearest blood relative, *if any*, and guardian, *if any*, of any such insane person, and the superintendent of the institution in which he or she is confined. Such relative or guardian and superintendent of the institution and such insane person shall be entitled to appear and be heard upon any and all issues. The status of the parties as to the support and maintenance of such insane person shall not be altered in any way by the granting of the divorce. *The general procedure for publication of service of summons shall be applicable under the terms of this act.*" Incurable insanity. Procedure.

Approved March 5, 1945.

CHAPTER 186

An Act to Validate and Confirm Sales or Dispositions Heretofore Made or Attempted to Be Made by Any County of Any Property in Which Such County Had or Claimed Any Right, Title or Interest, and All Instruments of Transfer or Conveyance Heretofore Made or Executed by Any County, and to Declare That All Such Sales, Dispositions and Instruments Have Vested in the Grantee or Purchaser, As of the Date Thereof, All Right, Title and Interest of the County in and to the Property Described or Covered, and Hereby Repeal All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. All sales or dispositions heretofore made or attempted to be made by any county of any property in

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Validation of sales of property heretofore made by counties.

which such county had or claimed any right, title or interest are hereby validated and confirmed, and all instruments of transfer or conveyance heretofore made or executed by any county are hereby validated and confirmed, and all such sales, dispositions and instruments are hereby declared to have vested in the grantee or purchaser, as of the date thereof, all right, title, estate and interest of such county in and to the property described or covered.

Severability of act.

Section 2. If any provisions of this act or the application thereof is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of the act are declared to be severable.

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved March 5, 1945.

CHAPTER 187

An Act to Amend Section 6355.1 of the Revised Codes of Montana, 1935 Relating to Building and Loan Associations, Specifically Defining Members of Building and Loan Associations.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 6355.1, R. C. 1935, amended.

Section 1. That Section 6355.1 of the Revised Codes of Montana, 1935, be and the same is hereby amended to read as follows:

Purpose—definition.

"Section 6355.1. **Purpose—Definition.** A corporation, mutually operated, for the purpose of encouraging home *ownership* and thrift among its *members* and *making* substantially all of its *loans* to them on real estate mortgage security, shall be known in this act as a building and loan association, and shall be under the supervision of the state examiner and ex-officio superintendent of banks, whose duty it shall be to enforce all laws with respect thereto.

Members, who are.

The members of a building and loan association shall be its shareholders, stockholders, borrowers or purchasers of real

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estate under contract. Such associations shall have continual succession and shall be organized under the provisions of this act."

Approved March 7, 1945.

CHAPTER 188

An Act to Amend Section 3778.6 of the Revised Codes of Montana 1935 As Amended by Chapter 69 of the Session Laws of 1941, Relating to An Increase in License Fees for Fur Dealer's License, and Providing That a License May Be Issued to a Fur Dealer's Agent Who Is Employed by Licensed Resident or Licensed Non-resident Fur Dealer.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 3778.6, be and the same is hereby amended to read as follows:

Sec. 3778.6, R. C. 1935, amended.

"Section 3778.6. **Classification and Fees for Licenses.** The following classes of licenses shall be issued:

Classification and fees for licenses.

Resident fur dealer's license

Non-resident fur dealer's license

Fur dealer's agent's license

And the following fees charged therefor:

Resident fur dealer's license, *ten ($10.00) dollars*

Non-resident fur dealer's license, *fifty ($50.00) dollars*

Fur dealer's agent's license, ten ($10.00) dollars

Any person who is employed by a resident or non-resident fur dealer as a traveling fur buyer shall be deemed a fur dealer's agent. *A fur dealer's agent's license may be issued to any person who is employed by a licensed resident or licensed non-resident fur dealer as a fur buyer. Providing that it shall be the responsibility of each and every fur dealer and fur dealer's agent to have the proper license before buying or dealing in furs as defined by Section 3778.3 of the Revised Codes of Montana 1935."*

Fur dealer's agent.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved March 7, 1945.

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CHAPTER 189

An Act to Authorize the Superintendent of the Montana School for the Deaf and Blind to Act Temporarily As Employment Placement Officer and Field Worker for the School in Addition to His Present Duties Temporarily; and Providing for Hiring a Part-time Instructor Who Will Assume Part-time Employment Placement Work and School Field Work and Also Specifying Qualifications, Duties and Salary.

Be it enacted by the Legislative Assembly of the State of Montana:

Added duties of superintendent of school for the deaf and blind.

Section 1. The superintendent of the Montana school for the deaf and blind is hereby authorized to add to his present duties that of acting as combined employment placement officer and school field worker temporarily for the sake of economy in order to set up this office and operate same until such time as in his opinion evidence warrants employing a part-time employment officer and school field worker and part-time instructor.

Part time instructor.

Section 2. When said superintendent believes he needs such part-time instructor he shall make recommendations to the state board of education.

Qualifications.

Section 3. Such employment placement officer must have a working knowledge of the sign language and taught three years or more in a deaf school.

Employment placement officer, duties of.

Section 4. As employment placement officer it shall be his duty to gather and record such data and statistics to help him locate suitable employment for such deaf and hard of hearing persons not in attendance at said school, or for those who have been trained by the state bureau of vocational rehabilitation when it so requests such assistance. He shall consult with various county, state and federal agencies and with state department of public welfare to secure employment for self sustaining persons. He shall co-ordinate his work with such federal agencies as social security and re-employment, for those out of work, as required under this law.

Field worker, duties of.

Section 5. As field worker he shall consult with school officers, parents or guardians of adult deaf relative to handicapped children, relative to their admission to said school.

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Section 6. As part-time instructor he shall teach and prepare students in the school, for employment and other duties, as directed by the superintendent. Part-time instructor, duties of.

Section 7. His salary shall be fixed by the board and paid as salaries of other employees of said school. Salary.

Section 8. All acts and parts of acts in conflict herewith are hereby repealed. Repealing clause.

Approved March 7, 1945.

CHAPTER 190

An Act to Amend Subsection (c) of Section 4, to Provide for Exemption from Ineligibility of Claimants Who Become Ill After Qualifying for Benefits, and Subsection (d) of Section 4, to Provide for a Waiting Period of Two Weeks at the Beginning of a Benefit Year; Subsection (a) of Section 9, to Remove from the Unemployment Compensation Fund Interest and Penalties Collected On Delinquent Contribution Reports and Renumbering the Sub-paragraphs; Subsection (j) of Section 11, by Adding a New Paragraph Thereto Designated "(2)" Providing for Combining of Wage Credits and Paying Benefits On Wage Credits of Claimant Earned in Several States; Subsection (a) of Section 13, to Provide for Interest and Penalties On Delinquent Contribution Reports Being Placed in the Unemployment Compensation Administration Fund and Specifically Providing That Only Federal Funds Furnished Under Section 302, Title III of the Social Security Act, As Amended, Shall Be Subject to the Control of the Social Security Board, or Its Successor; Subsection (a) of Section 14, Providing That Interest and Penalties Collected On Delinquent Contribution Reports Be Placed in the Unemployment Compensation Administration Fund; and Subsection (n) of Section 19, Providing for the Increase of Odd Job and Subsidiary Earnings, All of the Above Being Amendments to the Unemployment Compensation Law of the State of Montana, Chapter 137 of the Session Laws of the Twenty-fifth Legislative Assembly of Montana 1937 As Amended by Chapter 137 of the Session Laws of the Twenty-sixth Legislative Assembly of Montana 1939 and Further Amended by Chapter 164 of the Session Laws Title of Act.

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of the Twenty-seventh Legislative Assembly of Montana 1941 and Chapter 233 of the Session Laws of the Twenty-eighth Legislative Assembly of Montana 1943.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 4, Chap. 137, laws 1937, as amended, further amended.

Section 1. That Section 4 of Chapter 137 of the Session Laws of the twenty-fifth legislative assembly of the State of Montana 1937 as amended by Chapter 137 of the Session Laws of the twenty-sixth legislative assembly of the State of Montana 1939 and further amended by Chapter 164 of the Session Laws of the twenty-seventh legislative assembly of the State of Montana 1941 and Chapter 233 of the Session Laws of the twenty-eighth legislative assembly of the State of Montana 1943 be and the same is hereby amended to read as follows:

Benefit eligibility conditions.

"Section 4. **Benefit Eligibility Conditions.** An unemployed individual shall be eligible to receive benefits with respect to any week only if the commission finds that—

Shall register and report.

(a) He has registered for work at and thereafter has continued to report at an employment office in accordance with such regulation as the commission may prescribe, except that the commission may, by regulation, prescribe that such types of cases or situations with respect to which it finds that compliance with such requirements would be oppressive, or would be inconsistent with the purposes of this act, provide for registration and reporting for work by mail or through other governmental agencies.

Must make claim.

(b) He has made a claim for benefits in accordance with the provisions of section 6 (a) of this act.

Must be able to work and available.

(c) He is able to work and is available for work and is seeking work, *provided, however, that no claimant shall be considered ineligible in any week of unemployment for failure to comply with the provisions of this subsection if such*

Exception.

failure is due to an illness or disability which occurs after he has registered for work and no suitable work has been offered to such claimant after the beginning of such illness or disability.

Waiting period.

(d) Prior to any week for which he claims benefits he has been totally unemployed for a waiting period of two (2) weeks. No week shall be counted as a week of total unemployment for the purposes of this subsection:

(1) If benefits have been paid with respect thereto;

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(2) Unless the individual was eligible for benefits with respect thereto;

(3) Unless it occurs within the benefit year of the claimant;

(4) Unless it occurs after benefits first could become payable to any individual under this act.

(e) He has within the base period earned wages for employment by employers equal to thirty (30) times his weekly benefit amount."

Subsection (a) of Sec. 9 of Chap. 187, laws of 1937, amended.

Section 2. That Subsection (a) of Section 9 of Chapter 137 of the Session Laws of the twenty-fifth legislative assembly of the State of Montana 1937 be and the same is hereby amended to read as follows:

UNEMPLOYMENT COMPENSATION FUND

Unemployment compensation fund.

"Section 9. (a) **Establishment and Control.** There is hereby established as a special fund, separate and apart from all public moneys or funds of this state, an unemployment compensation fund, which shall be administered by the commission exclusively for the purposes of this act. This fund shall consist of (1) all contributions collected under this act. (2) *interest earned upon any moneys in the fund;* (3) any *property or securities acquired through the use of* moneys *belonging to the* fund; and (4) *all earnings of such* property or securities. *All moneys in the fund shall be mingled and undivided.*

Subsection (j) Sec. 11, Chap. 187, laws of 1937, amended.

Section 3. That Subsection (j) of Section 11 of Chapter 137 of the Session Laws of the twenty-fifth legislative assembly of the State of Montana 1937 be and the same is hereby amended to read as follows:

Reciprocal benefit arrangements.

"(j) **Reciprocal Benefit Arrangements.** The commission is hereby authorized to enter into arrangements with the appropriate agencies of other states or the federal government, whereby individuals performing services in this and other states for a single employing unit under circumstances not specifically provided for in this act, or under similar provisions of the unemployment compensation laws of such other states, shall be deemed to be engaged in employment performed entirely within this state or within one of such other states and whereby potential rights to benefits accumulated under the unemployment compensation laws of several states or under such a law of the federal govern-

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ment, or both, may constitute the basis for the payment of benefits through a single appropriate agency under terms which the commission finds will be fair and reasonable as to all affected interests, and will not result in any substantial loss to the fund.

Additional arrangements authorized.

The commission is also authorized to enter into arrangements with the appropriate agencies of the other states or of the federal government (i) whereby wages or services, upon the basis of which an individual may become entitled to benefits under the unemployment compensation law of another state or of the federal government, shall be deemed to be wages for employment by employers for benefit purposes; provided such other state agency or agency of the federal government has agreed to reimburse the unemployment compensation fund for such portion of benefits paid under this act upon the basis of such wages or services as the commission finds will be fair and reasonable as to all affected interests; and (ii) whereby the commission will reimburse other state or federal agencies charged with the administration of unemployment compensation laws, with such reasonable portion of benefits, paid under the law of any such other states or of the federal government upon the basis of employment or wages for employment by employers, as the commission finds will be fair and reasonable to all affected interests. Reimbursements so payable shall be deemed to be benefits for the purposes of this act. The commission is hereby authorized to make to other state or federal agencies and receive from such other state or federal agencies, reimbursements from or to the unemployment compensation fund, in accordance with arrangements made pursuant to this section.''

Subsection (a) Sec. 13, Chap. 137, laws of 1937 further amended.

Section 4. That Subsection (a) of Section 13 of Chapter 137 of the Session Laws of the twenty-fifth legislative assembly of the State of Montana 1937 as amended by Chapter 164 of the Session Laws of the twenty-seventh legislative assembly of the State of Montana 1941 be and the same is hereby amended to read as follows:

UNEMPLOYMENT COMPENSATION ADMINISTRATION FUND

Unemployment compensation administration fund created.

''Section 13 (a) **Special Fund.** There is hereby created in the state treasury a special fund to be known as the unemployment compensation administration fund. All moneys which are deposited, *appropriated* or paid into this

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fund are hereby appropriated and made available to the commission. All moneys in the fund shall be expended solely for the purpose of defraying the costs of administration of this act *and costs of administration of such other legislation as shall be specifically delegated to the commission for administration by the legislature. All moneys received and deposited in said fund for administrative expense from the social security board, or its successor, pursuant to section 302, title III of the social security act shall be expended solely for the purpose and in the amounts found necessary by the social security board for the proper and efficient administration of this act. The fund shall consist of (1) all moneys received from the social security board, or its successor, pursuant to section 302, title III of the social security act, and (2) all moneys appropriated by the state from the general fund for the purpose of administering this act, all interest and penalties collected on past due contributions as provided by section 14 (a) of this act; all moneys, trust funds, supplies, facilities or services furnished, deposited, paid and received from the United States of America, or any agency thereof, from this state or any agency thereof, from any other state or any of its agencies, from political subdivisions of the state, or any other source for administrative expense and purpose.* All moneys in this fund shall be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as is provided by law for other special funds in the state treasury. Any balance in this fund shall not lapse at any time, but shall be continuously available to the commission for the expenditure consistent with this act. The state treasurer shall give a separate and additional bond conditioned upon the faithful performance of his duties in connection with the unemployment compensation administration fund in an amount to be fixed by the commission and in a form prescribed by law or approved by the attorney general. The premiums for such bond and the premiums for the bond given by the treasurer for the unemployment compensation fund under section 9 of this act, shall be paid from the moneys in the unemployment compensation administration fund."

Purposes for which expenditures may be made.

Administration of fund.

Section 5. That Subsection (a) of Section 14 of Chapter 137 of the Session Laws of the twenty-fifth legislative assembly of the State of Montana 1937 as amended by Chapter 137 of the Session Laws of the twenty-sixth legislative

Subsection (a) Sec. 14, Chap. 137, laws of 1937, as amended, further amended.

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assembly of the State of Montana 1939 and further amended by Chapter 164 of the Session Laws of the twenty-seventh legislative assembly of the State of Montana 1941 and Chapter 233 of the Session Laws of the twenty-eighth legislative assembly of the State of Montana 1943 be and the same is hereby amended to read as follows:

Penalty and interest on past due contributions.

"Section 14 (a). **Penalty and Interest on Past Due Contributions.** Contributions unpaid on the date on which they are due and payable, as prescribed by the commission, shall be subject to a penalty assessment of five per centum (5%) or five ($5.00) dollars, whichever is greater, and shall bear interest at the rate of one-half of one per centum (½ of 1%) per month from and after such date until payment plus accrued interest and penalty is received by the commission. No interest shall be charged for fractional part of a month. Interest and penalty collected pursuant to this subsection shall be paid into the unemployment compensation *administration* fund. When failure to pay contributions in time and before delinquency was not caused by wilful intent of the employer, and for good cause shown, the commission may abate the penalty and interest, as a compromise offer of settlement and payment of the tax liability."

Subsection (n) Sec. 19, Chap. 137, laws of 1937, as amended, further amended.

Section 6. That Subsection (n) of Section 19 of Chapter 137 of the Session Laws of the twenty-fifth legislative assembly of the State of Montana 1937 as amended by Chapter 137 of the Session Laws of the twenty-sixth legislative assembly of the State of Montana 1939 and further amended by Chapter 164 of the Session Laws of the twenty-seventh legislative assembly of the State of Montana 1941 and Chapter 233 of the Session Laws of the twenty-eighth legislative assembly of the State of Montana 1943 be and the same is hereby amended to read as follows:

"(n) TOTAL UNEMPLOYMENT:

Total unemployment.

(1) An individual shall be deemed 'totally unemployed' in any week during which he performed no services and with respect to which no wages are payable to him.

(2) An individual's week of unemployment shall be deemed to commence only after his registration at an employment office, except as the commission may by regulation otherwise prescribe.

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(3) As used in this subsection the term 'wages' shall include only that part of remuneration for odd jobs or subsidiary work, or both, which is in excess of *seven ($7.00)* dollars in any one week, and the term 'services' shall not include that part of odd jobs or subsidiary work, or both, for which remuneration equal to or less than *seven ($7.00)* dollars per week is payable, *or for one (1) day's work not exceeding eight (8) hours, whichever is greater.*"

"Wages" defined.

Section 7. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved March 7, 1945.

CHAPTER 191

An Act to Amend Section VII of Part IV of Chapter 82 of the Session Laws of 1937 As Amended by Section 18 of Chapter 129 of the Session Laws of 1939, Relating to the Amounts of Reimbursements by County Departments of Public Welfare for Grants in Aid of Dependent Children to the State Department of Public Welfare.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 18 of Chapter 129 of the laws of 1939 be amended to read as follows:

Sec. 18, Chap. 129, laws 1939, amended.

"Section 18. Each county department shall reimburse the state department in the amount of *sixteen and two-thirds per cent (16 2/3%)* of the approved aid to dependent children grants to persons in the county each month *for that part of the grants to which contribution is made by the federal government. Each county department shall reimburse the state department in the amount of fifty per cent (50%) of such grants which are not included within the provisions of the first sentence of this section.* These reimbursements shall be credited to the aid to dependent children account of the state department."

County share of participation.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Effective date.

Approved March 7, 1945.

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CHAPTER 192

An Act to Amend Sections 2357, 2357.1, 2358, 2359, 2360, 2361, 2362, 2363 and 2365 of the Revised Codes of Montana of 1935, Relating to the Imposition of License Taxes on Producers and Importers of Cement, Gypsum or Products of Either.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 2357, R. C. 1935, amended.

Section 1. That Section 2357 of the Revised Codes of Montana of 1935 be and the same is hereby amended to read as follows:

License tax imposed on producers or importers of cement, gypsum, and certain products therefrom.

"Section 2357. Every person engaged in or carrying on the business in the State of Montana of producing or manufacturing cement, gypsum, gypsum plaster, *stucco, wallboard, land plaster* or other products of cement or gypsum, and any person who imports into this state any such products for sale or use, must, for the year *1945* and each year thereafter, when engaged in or carrying on such business in this state, pay to the state *board of equalization* for the use of the State of Montana, a license tax for engaging in and carrying on such business in the State of Montana in *an amount equal to the following sums:*

Amount of license tax.

Cement, per barrel

"1. For each and every barrel of cement containing 376 pounds produced or manufactured by such person or used by such person in the manufacture or production of any of the articles or products hereinabove enumerated, or imported by such person into this state for sale or use, four (4) cents.

Gypsum, per ton.

"2. For each and every ton of 2000 pounds of gypsum produced or manufactured by such person or used by such person in the manufacture or production of any of the articles or products hereinabove named, or imported by such person into this state for such sale or use, five (5) cents.

"Products of cement or gypsum" defined.

"3. The words 'products of cement or gypsum' as used in this section shall, in addition to the articles herein specifically enumerated, include all manufactured products into which gypsum enters as a component part to the extent of not less than fifty per cent (50%) by weight. No double taxation of either cement, gypsum or the products thereof is imposed by this act."

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Section 2. That Section 2357.1 of the Revised Codes of Montana of 1935 be and the same is hereby amended to read as follows:

Sec. 2357.1, R. C. 1935, amended.

"Section 2357.1. **'Import' Defined.** The word 'import' shall include and mean to receive into any person's possession or custody first after its arrival and coming to rest at destination within the State of Montana of any cement, *gypsum,* gypsum plaster, *stucco, wallboard, land plaster* or *other* products of *cement or gypsum, as the same are defined in Section 2357 of the Revised Codes of Montana of 1935 as amended by this act,* shipped or transported into this state from point of origin without this state."

"Import" defined.

Section 3. That Section 2358 of the Revised Codes of Montana of 1935 be and the same is hereby amended to read as follows:

Sec. 2358, R. C. 1935, amended.

"Section 2358. **Quarterly Payment of Tax.** Such annual license tax, *as imposed by Section 2357 of the Revised Codes of Montana of 1935 as amended by this act,* shall be paid in quarterly installments for the quarters ending, respectively, March 31st, June 30th, September 30th and December 31st, of each year, beginning with the quarter ending March 31, *1945,* and the amount of such license tax due for each such quarter shall be paid to the state *board of equalization* within thirty days after the end of each such quarter."

Quarterly payment of tax.

Section 4. That Section 2359 of the Revised Codes of Montana of 1935 be and the same is hereby amended to read as follows:

Sec. 2359, R. C. 1935, amended.

"Section 2359. **Statements to Be Filed With Board of Equalization.** Each and every person engaged in or carrying on *the business specified in Section 2357 of the Revised Codes of Montana of 1935, as amended by this act,* at the date when this act becomes effective, must, not later than the thirtieth day of April, *1945* and every person who shall, after the date this act becomes effective, engage in such business, must immediately upon engaging therein, file with the state board of equalization a certificate and statement, on forms prescribed by the state board of equalization which shall contain the name under which such person is engaging in and carrying on such business within this state, giving the name of the place or places of business or location of plants or factories within this state; the name and address

Statements to be filed with board of equalization.

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of the managing agent in this state; if a corporation, joint-stock company or association, or if a firm or co-partnership, the names and addresses of the persons composing the same; if an association, joint-stock company or corporation, under the laws of what state organized, its principal place of business and the name and addresses of its principal officers; and such other information as the state board of equalization may deem necessary."

Sec. 2360, R. C. 1935, amended.

Section 5. That Section 2360 of the Revised Codes of Montana of 1935 be and the same is hereby amended to read as follows:

Manufacturers to keep records.

"Section 2360. **Manufacturers to Keep Records.** Every such person shall keep a record in such form as the state board of equalization may require of all cement, *gypsum*, gypsum plaster, *stucco, wall board, land plaster or other products of cement or gypsum* manufactured or produced by such person in this state. Such records shall at all times during the business hours of the day be subject to inspection by the state board of equalization, its members, agents or employees."

Sec. 2361, R. C. 1935, amended.

Section 6. That Section 2361 of the Revised Codes of Montana of 1935 be and the same is hereby amended to read as follows:

Quarterly statement and payment of tax.

"Section 2361. **Quarterly Statement and Payment of Tax.** Each and every person must, within thirty days after the quarter ending March 31, *1945*, and within thirty days after the end of each following quarter, make out, on forms prescribed by the state board of equalization, and deliver to the state *board of equalization*, a statement showing the total number of barrels *or tons of cement or gypsum produced by such person or used by him in the manufacture of the respective articles or products enumerated in Section 2357 of the Revised Codes of Montana of 1935, as amended by this act, or imported by such person into the State of Montana for sale or use*, during each month of such quarter and during the whole quarter, *and such other information as said board may require*, together with the total amount due to the state as license taxes for such quarter; and must, within such thirty days, and at the same time such statement is delivered to the state *board of equalization*, pay to the state *board of equalization* the amount of the license taxes shown by such statement to be due to the State of Montana for the quarter for which such statement is made.

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Such statement must be signed and verified by the oath of the individual or individuals, or by the president, vice-president, treasurer, assistant treasurer, or managing agent in this state of the association, corporation, or joint-stock company making the same. Any such person engaged in carrying on such business at more than one place or operating more than one factory or plant in this state, may include all thereof in one statement."

Sec. 2362, R. C. 1935, amended.

Section 7. That Section 2362 of the Revised Codes of Montana 1935 be and the same is hereby amended to read as follows:

Failure to file statement unlawful.

"Section 2362. **Duty to File Statement.** It shall be unlawful for any person to fail, neglect, or refuse to file any statement or certificate required by *Section 2361 of the Revised Codes of Montana of 1935, as amended by this act,* in the manner or within the time herein required, or to make such statement false in any particular."

Sec. 2363, R. C. 1935, amended.

Section 8. That Section 2363 of the Revised Codes of Montana of 1935 be and the same is hereby amended to read as follows:

Procedure to ascertain tax on failure of statement.

"Section 2363. **Procedure to Ascertain Tax on Failure of Statement—Penalty.** If any such person shall fail, neglect or refuse to file any statement required by Section 2361 *of the Revised Codes of Montana of 1935, as amended by this act,* within the time therein required, *or shall fail to pay the tax required by this act on or before the date such payment is due,* the state board of equalization shall, immediately after such time has expired, proceed to inform itself as best it may, regarding the amounts *of the respective articles or products enumerated in Section 2357 of the Revised Codes of Montana of 1935, as amended by this act,* manufactured or produced by such person within this state *or imported by such person into the state,* during such quarter, and during each month thereof, and shall determine and fix the amount of the license taxes due to the state from such person for such quarter, and shall make out a statement, showing the same, and shall add to the amount of such license taxes, a penalty of twenty-five per cent thereof and deliver such statement to the *attorney general,* who shall proceed to collect the amount of the license taxes, with the penalty added thereto and interest on the whole thereof at the rate of twelve per cent per annum from the date of the making of such statement by the state *board of equaliza-*

Penalty.

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tion until paid. Upon request of the state *board of equalization,* it shall be the duty of the attorney general to commence and prosecute to final determination in any court of competent jurisdiction, an action at law to recover the same."

Sec. 2365, R. C. 1935, amended.

Section 9. That Section 2365 of the Revised Codes of Montana of 1935 be and the same is hereby amended to read as follows:

Penalty for violation of act.

"Section 2365. **Penalty for Violation of Act.** Any violation of the provisions of *Sections 2357, 2357.1, 2358, 2359, 2360, 2361, 2362, 2363, or 2365, or either or any thereof, of the Revised Codes of Montana of 1935, as amended by this act,* shall be deemed a misdemeanor, and shall be punished by a fine not exceeding *five hundred* dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment."

Repealing clause.

Section 10. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 11. This act shall take effect upon its passage and approval.

Approved March 7, 1945.

CHAPTER 193

An Act Providing for the Establishment, Regulation, Supervision, Licensing, and Bonding of Livestock Markets; Defining the Terms Used in This Act; Providing for the Enforcement of This Act; Prescribing a Penalty for Violation Thereof; Conferring Certain Jurisdiction Upon the Livestock Commission and the Livestock Sanitary Board of the State of Montana Concerning the Same; and Repealing Chapter 52 of the 1937 Session Laws of the State of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Definitions.

Section 1. When used in this act:

"Livestock."

(a) The word "livestock" means and includes horses, mules, cattle, swine, sheep and goats;

"Person."

(b) The word "person" means and includes a person, co-partnership, association or corporation;

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"Commission."

(c) The words "commission" or "livestock commission" mean the livestock commission of the State of Montana;

"Sanitary board."

(d) The words "sanitary board" mean the Montana livestock sanitary board;

"Certificate."

(e) The word "certificate" means the certificate of public convenience and necessity authorized to be issued under the provisions of this act.

"Commission basis."

(f) The words "commission basis" mean the compensation or charge imposed on the owner of livestock for the services rendered such owner by the operator of the livestock market;

"Livestock market."

(g) The term "livestock market" means a place where a person shall assemble livestock for either private or public sale *by him* and such service is to be compensated for by owner, on a commission basis or otherwise, except: (1) Any place used solely for a dispersal sale of the livestock of a farmer, dairyman, livestock breeder or feeder who is discontinuing said business and no other livestock is there sold or offered for sale; (2) Any farm, ranch, or place where livestock either raised or kept thereon for the grazing season or for fattening is sold, and no other livestock is brought there for sale or offered for sale; (3) The premises of any butcher, packer, or processor who received animals exclusively for immediate slaughter; (4) The premises of any person, firm, association, or corporation engaged in the raising of livestock for breeding purposes only, who limits his or its sale to animals of his or its own production; (5) Any place where a breeder or an association of breeders of livestock of any class assemble and offer for sale and sell under his or their own management any livestock, when such breeder or association of breeders shall assume all responsibility of such sale and the title of livestock sold.

Livestock commission and sanitary board, powers and duties of.

Section 2. The livestock commission and sanitary board of the State of Montana is hereby vested with power and authority, and it is hereby made its duty: (a) To supervise and regulate livestock markets in this state; (b) To regulate the properties, facilities, operations, services and practices of all livestock markets: (c) *To supervise and regulate livestock markets in all matters affecting the relationship between such operators and owners of livestock, and between such operators and purchasers of livestock, at such markets;* (d) To prescribe by general order, or otherwise, rules and

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regulations in conformity with this act applicable to all livestock markets, and not in conflict with the *laws of the United States or* rules and regulations of the United States department of agriculture or other federal agencies.

Certificate required of operators of livestock markets.

Section 3. No person shall hereafter operate a livestock market in the State of Montana without first having obtained from the commission, under the provisions of this act, a certificate declaring that public convenience and necessity require such operation. Any person making application for such certificate shall do so in writing, verified by the applicant, and specifying the following matters:

Application, contents of.

(1) The name and address of the applicant, and the names and addresses of its officers, if any;

(2) The place where applicant proposes to operate a livestock market;

(3) A complete and detailed description of the property and facilities proposed to be used in connection with such livestock market;

(4) The commissions or charges applicant proposes to impose on the owners of livestock for services rendered to them by applicant in the operation of such livestock market;

(5) A detailed statement showing the assets and liabilities of applicant;

(6) The location of other livestock markets within a radius of two hundred (200) miles of the proposed livestock market, and the names and addresses of the operators thereof;

(7) A detailed statement of the facts upon which applicant relies showing public convenience and necessity for such livestock market, including the anticipated revenue from inspection fees that may be derived therefrom by the State of Montana;

(8) Such other or additional information as the commission may require;

Fee to accompany application.

(9) Such application shall be accompanied by a fee of one hundred dollars ($100.00), which shall also be considered the first annual fee if such application is granted; provided, however, that the annual fee shall be paid on the following first day of May and each year thereafter, as provided herein.

Hearing upon application, and procedure.

Section 4. Upon the filing of such application, the commission shall fix a time and place for hearing thereon,

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which shall not be less than ten (10) days after such filing. The commission shall cause a copy of such application and notice of hearing thereon to be served by mail upon: (a) the operators of any other livestock markets that in the opinion of the commission might be affected by the granting of any such certificate; (b) the secretaries of the Montana stockgrowers association and the Montana woolgrowers association; (c) the secretary of the district livestock association, if any; and, (d) the secretary of the livestock association or associations, if any, at the place or within the vicinity of the proposed livestock market, if known to the commission; and, (e) upon any railroad company operating into or through any town or city in which the proposed livestock market will be located, at least ten (10) days before the date of hearing.

If, after hearing upon such application, the commission shall find from the evidence that public convenience and necessity require the authorization of the proposed livestock market, a certificate therefor shall be issued to the applicant. In determining whether or not public convenience and necessity require such livestock market, the commission shall give reasonable consideration to the service rendered by other existing livestock markets in the state and the effect upon them if the proposed livestock market is authorized, and shall give due consideration to the likelihood of the proposed service being permanent and continuous throughout twelve (12) months of the year; provided, however, that the commission shall not authorize the proposed livestock market unless it shall appear from the evidence submitted at the hearing that the minimum revenue derived by the state from inspection fees shall be equal to seventy-five percent (75%) of the cost to the state in maintaining a resident livestock inspector and an office for him at such proposed livestock market, and the cost of maintaining at such office of a sufficient record of the recorded livestock brands and marks in the state; provided, however, that the commission may authorize the same if the operator of the proposed market shall by bond approved by the commission guarantee the payment of such minimum revenue.

Matters to be considered.

Limitation upon issuance of certificates.

Section 5. All livestock markets legally licensed by the commission under the provisions of Chapter 52, Laws of Montana, 1937, and engaged in business at the time of the effective date of this act, shall be entitled to receive from the commission, without further application or fee, a cer-

Livestock markets presently licensed.

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tificate as provided in this act, authorizing the continuance thereof; provided, however, that if after hearing in the manner provided in this act it shall appear to the commission that such livestock market, or any livestock market which may be licensed as provided in this act, shall, for a period of two (2) successive years, fail to provide the minimum revenue to the state as provided in this act, such livestock market may be discontinued by the order of the commission.

Grounds for discontinuance of markets.

Section 6. Every person operating a livestock market in this state shall be required to pay on May 1st, annually, a license fee of one hundred dollars ($100.00) to the livestock commission. All fees provided for under this act shall be paid into the state treasury, and shall be placed by the state treasurer to the credit of the livestock commission fund.

License fee.

Section 7. Every person operating a livestock market in this state shall provide a bond in favor of the State of Montana, upon a form and with surety to be approved by the commission, in the minimum penal sum of ten thousand dollars ($10,000.00) or such greater sum as the livestock commission may determine, conditioned upon: (a) the payment forthwith upon the sale of such livestock of all money received, less reasonable expenses and commissions, by the licensee and operator of such livestock market to the rightful owner or owners of livestock so consigned and delivered to such licensee for sale; (b) the payment of the minimum fees as provided by section 4 of this act; and, (c) a full compliance with all the terms and requirements of this act, including all rules and regulations made thereunder. When so approved said bond shall be filed with the secretary of the livestock commission. Actions of law may be brought in the name of the state upon any such bond for the use and benefit of any person who may suffer loss or damage from violations thereof, and may be brought by any such person suffering loss or damage in the county of his residence.

Bond required.

Section 8. Each licensee shall keep such accounts, records and memoranda, and shall make such reports, as may from time to time be required by the commission, and the commission and its authorized agents and employees shall at all times have access to such accounts, records and memoranda for inspection and examination.

Records to be kept by licensees.

Section 9. The Montana livestock sanitary board shall

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adopt and enforce such rules and regulations as it may deem necessary or advisable, in the interest of livestock health or public health and such rules and regulations shall have the same force and effect as those adopted by the commission.

Rules and regulations.

Section 10. Finding by the commission that any licensee: (a) has been guilty of fraud or misrepresentation as to the titles, charges, *number*, brands, weights, proceeds of sale, or ownership of livestock; (b) has violated any of the provisions of this act; (c) has violated any of the rules or regulations adopted and published by the commission or by the sanitary board; (d) has violated any of the laws of the State of Montana, requiring the inspection of horses and cattle, as contained in Chapter 59, Laws of Montana, 1943, or as amended; or, (e) has violated any of the conditions of the bond, as provided by this act, shall be deemed a sufficient cause for the cancellation or suspension of the certificate of the offending operator of such livestock market.

Causes justifying cancellation or suspension of certificates.

Section 11. The commission, sanitary board or any member or the secretaries thereof, may upon their own motion, or upon verified complaint in writing of any person, whenever they or either of them deem it necessary, investigate the actions of any licensee, and if they or either of them find it proper to do so, shall file complaint against the licensee with the commission, and said complaint shall be set down for hearing before the commission upon ten (10) days' notice served upon such licensee either by personal service upon him or by registered mail or by telegram prior to such hearing.

Investigation of actions of licensees—hearing of complaints.

Any member of the commission, sanitary board or the secretaries thereof, shall have power to administer oaths, certify to all official acts and shall have the power to subpoena and bring before them any person in this state as a witness, to compel the producing of books and papers and to take the testimony of any person or deposition in the same manner as is prescribed by law in the procedure before the courts of this state in civil cases. Processes issued by the commission or sanitary board shall extend to all parts of the state and may be served by any person authorized to serve processes. Each witness that shall appear by the order of the commission or the sanitary board shall receive for his attendance the same fees and mileage allowed by law to witnesses in civil cases appearing in the district court, which amount shall be paid by the party at whose request

Additional powers and duties of members of commission or sanitary board, or secretaries thereof.

Witnesses.

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such witness is subpoenaed. When any witness has not been required to attend at the request of any party, but subpoenaed by the commission or sanitary board, his fees and mileage shall be paid by the commission in the same manner as other expenses of the said department are paid.

Investigation, inquiry or hearing may be undertaken by or held before whom.

Any investigation, inquiry or hearing which the commission has power to undertake or to hold, under the provisions of this act, may be undertaken or held by or before any member of the commission or by or before any agent or examiner of the commission designated for the purpose by the commission, and every finding, order or decision made by a member of the commission or agent or examiner of the commission so designated, pursuant to such investigation, inquiry or hearing when approved and confirmed by the commission and ordered filed in its office, shall be deemed to be and be the finding, order or decision of the commission; provided also that any agent or examiner of the commission designated as aforesaid shall have power to administer oaths, examine witnesses and receive evidence.

Appeal by licensee or applicant for certificate.

Section 12. If the commission shall refuse to grant an application for a certificate or shall suspend or revoke a certificate and the licensee shall feel aggrieved by the decision of the commission, he may appeal to the district court of the county in which he has his principal place of business, by giving notice of such appeal in writing to the commission and filing a bond with the clerk of the district court in the sum of three hundred dollars ($300.00) to be approved by the judge of said court, conditioned to pay all costs that may be awarded against such appellant in the event of an adverse decision, said bond and notice and a transcript of the complaint, pleadings, notices, motions, and other papers filed in the cause with the commission, certified by the secretary of the commission to be filed within ten (10) days from the date of the decision of the commission. Cost of preparing such transcript shall be paid by appellant. The filing of such notice and bond shall supersede the order of the commission until the final determination of the appeal. The judge of the court shall summarily hear and determine the questions involved in said appeal and shall receive and consider any pertinent evidence whether oral or documentary concerning the matter. If the aggrieved person should fail to perfect his appeal or file said transcript as herein provided, said stay shall automatically terminate. Appeals from judgments of the dis-

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trict court may be taken to the supreme court in the same manner as appeals are taken in civil actions. Appeals to supreme court.

Section 13. The operator of each livestock market in this state shall warrant to the purchaser thereof the title of all livestock sold through his livestock market and shall be liable to the rightful owner thereof for the net proceeds in cash received for such livestock so sold, and it shall be the further duty of such operator of a livestock market when notified by the authorized brand inspector, that there is a question as to whether any designated livestock sold through such market is lawfully owned by the consignor thereof, to hold the proceeds received from the sale of said livestock for a reasonable time not to exceed thirty (30) days, to permit the consignor to establish ownership, and if at the expiration of that time, the consignor fails to establish his lawful ownership of such livestock, said proceeds shall be transmitted by such operator of a livestock market to the secretary of the livestock commission, which secretary shall have authority to dispose of such proceeds in accordance with Chapter 290, Sections 3333-3334 of the Political Code, Revised Codes of Montana, 1935, relating to the distribution of estray money, and the secretary's receipt therefor shall relieve said operator of a livestock market from further responsibility for said proceeds. Proof of ownership and account of all sales of livestock shall be transmitted by the authorized brand inspector to the secretary of the livestock commission. Operator of market to warrant title of livestock sold. Other duties of operator of market.

Section 14. All dispersal sales made at livestock markets shall meet the requirements prescribed for other livestock passing through such market. Dispersal sales.

Section 15. Any person who shall violate any provisions or requirements of this act or rule or regulation adopted by the commission or the sanitary board pursuant to this act, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than one hundred dollars ($100.00) nor more than six hundred dollars ($600.00), or by imprisonment in the county jail not less than thirty (30) days nor more than six (6) months, or by both such fine and imprisonment. Every person who having been convicted of a violation of this act shall after such violation or any of the provisions of this act again be found guilty of a violation as aforesaid shall be punished by a fine of not less than two hundred dollars ($200.00) nor more Penalties for violations of act.

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than one thousand dollars ($1,000.00), or by imprisonment in the county jail for not less than three (3) months nor more than six (6) months, or by both such fine and imprisonment. Such second conviction shall require the commission to suspend or cancel the certificate of such person without hearing, in which event such person shall not again be granted a certificate for a period of one (1) year.

Jurisdiction of district courts.

Section 16. The district courts shall have original jurisdiction in all criminal actions for violations of the provisions of this act.

Severability of act.

Section 17. If any section, subsection, sentence, clause or phrase of this act is for any reason held unconstitutional, such decisions shall not affect the validity of the remaining portions of this act. The legislative assembly declares that it would have passed this act and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Repealing clause.

Section 18. Chapter 52 of the 1937 Laws of the State of Montana, and all acts and parts of acts in conflict herewith, are hereby repealed.

Effective date.

Section 19. This act shall be in full force and effect from and after July 1, 1945.

Approved March 7, 1945.

CHAPTER 194

An Act to Amend Sections 1805.52 and 1805.53, Revised Codes of Montana, 1935, Authorizing the State Board of Land Commissioners to Lease State Land for Mining and Extracting in Addition to the Substances Heretofore Provided in Said Section, *Bentonite, Calsite, Talc, Mica, Ceramic, Asbestos, Marble and Diatomite*, Providing for Measurement of Substances Mined or Extracted, and Royalty Payments; Providing for Reports and Distribution of Royalties.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 1805.52, Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

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"Section 1805.52. **The Board May Issue Leases.** Whenever there are found upon state lands to which the title is vested in the state, and which lands have not been sold by the state under certificate of purchase, or otherwise, deposits of stone, limestone, oil shale, clay, *bentonite, calsite, talc, mica, ceramic, asbestos, marble, diatomite,* gravel or sand valuable for building, mining or other commercial purposes, the state board of land commissioners may, in its discretion, issue to private persons permits or leases for the removal and disposition of such stone, *limestone, oil shale, clay, bentonite, calsite, talc, mica, ceramic, asbestos, marble, diatomite,* gravel or sand upon such terms and conditions as the board may determine; provided, however, that all such leases shall be upon a royalty basis calculated upon *a gross value by weight or cubic measurement as is most favorable for the particular substance being mined or extracted* from the *lands, such gross value to be determined at the mine or site of operation,* and the rates shall be the same that ordinarily would be charged by private owners under similar circumstances, *or as in the determination of the board may be determined fair and reasonable,* and the fee for issuing the lease shall be the same as for an oil and gas lease. No such lease shall be made for longer term than *ten (10)* years, and the board may demand a cash deposit to guarantee the payment of the royalties, or demand a surety bond, or both such cash deposit and bond, as the board may determine.

The board may issue leases for removal of stone, oil shale and other designated deposits.

Royalty, calculation of.

Term, limitation of.

Bond or deposit.

Section 2. That Section 1805.53, Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

"Section 1805.53. *Report of Lessee and Payment of Distribution* **of Royalties and Other Receipts.** *On or before the 15th day of each month, each holder of a lease under the provisions of this act, shall make a report to the state board of land commissioners' office, which report shall be in such form as the state board of land commissioners may prescribe, showing the amount of substances as herein provided, mined or extracted from the lands under the provisions of this act in the preceding month, the price obtained, the total amount of sales and such additional information as may be required, and shall be verified by affidavit of the lessee, or some responsible person having knowledge of the facts, and shall be accompanied by payment of the amount to the state as royalty for the month covered by the report.* The roy-

Report of lessee.

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alties, fees and penalties received under such leases shall be credited to the various funds to which they properly belong in the same manner as *is* now provided for crediting *the same* under oil and gas leases."

Receipts to be credited to what funds.

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 4. This act shall be in full force and effect upon its passage and approval.

Approved March 7, 1945.

CHAPTER 195

An Act to Amend Sections 6014.81 and 7260 of the Revised Codes of Montana, 1935, Relating to the Records, Inspection, Fees, Reports and Fixing the Examiners' Fees, in Irrigation Districts Within the State of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 6014.81, R. C. 1935, amended.

Section 1. That Section 6014.81 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Payments by irrigation districts.

"Section 6014.81. **Payments by Irrigation Districts.** For the credit of said fund, each irrigation district under the supervision of the state examiner, shall pay to the state treasurer on or before the first day of July of each year, the following amounts:

Fee of $50, when.

Districts whose existing or proposed obligations are in excess of two hundred fifty thousand dollars ($250,000.00), a fee of fifty dollars ($50.00).

Fee of $25, when.

Districts whose existing or proposed obligations are less than two hundred fifty thousand dollars ($250,000.00), *a fee of* twenty-five dollars ($25.00); *provided, however, that the secretaries of districts having an annual income not in excess of fifteen hundred dollars ($1,500.00), may present their books and records at the courthouse in the county in which the district is located, upon notice from the state examiner or his representative, for the purpose of having the same examined, in which event the fee payable to the state treasurer, shall be ten dollars ($10.00). It shall be the duty of the state examiner, or his representative, to notify the*

Proviso.

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secretaries of such districts of the time of presenting the books and records at the courthouse for examination."

Section 2. That Section 7260 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Sec. 7260, R. C. 1935, amended.

"Section 7260. **Records—Inspection—Fees—Reports.** It shall be the duty of the board of commissioners to keep or cause to be kept a full and complete book and record of the accounts, records, contracts, securities, minutes of meetings, and other matters of every kind pertaining to or belonging to the irrigation district, in the form prescribed by the state examiner. It is hereby made the duty of the state examiner to prescribe such forms for the use of irrigation districts, and to examine the same as provided by law for the examination of the affairs of county officers. Such books and records shall be open to the inspection of any landowner of the district in the same manner as other public records. The failure of the board of commissioners to comply with the provisions of this section shall be grounds for removal from office and it is hereby made the duty of the county attorney of any county in which such irrigation district is situated to bring and prosecute ouster proceedings against any commissioner or commissioners, and the cost and expense thereof shall be a charge against such irrigation district, to be paid as are other bills against such districts.

Records to be kept.

Grounds for removal of board of commissioners.

In case any district is appointed fiscal agent of the United States, or by the United States is authorized to make collections for or on behalf of the United States in connection with any federal irrigation project, such board of commissioners, or the secretary thereof, shall at any time allow any officer or employee of the United States, when acting under the orders of the secretary of the interior, to have access to all books, records, and vouchers of the district which are in possession or control of the secretary, or of said board.

Districts which are fiscal agents of the United States.

It shall be the duty of the board of commissioners to file with the county clerk and recorder of the county in which the district is located, annually, within ten days from and after March 1 of each year, a sworn report showing the assets and liabilities of the district, the amount of money received during the preceding year, and the amount expended during said time, and shall cause said report to be

Annual statement of assets and liabilities to be filed.

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published at least once in the official newspaper of such county."

Repealing clause.

Section 3. All acts and parts of acts in conflict herewith, are hereby repealed.

Approved March 7, 1945.

CHAPTER 196

An Act Validating, Ratifying, Approving and Confirming Bonds and Other Instruments or Obligations, Heretofore Issued by Public Bodies of This State, and All Proceedings Heretofore Taken for the Authorization and Issuance by Such Public Bodies of Bonds, Instruments and Other Obligations, However Described, and Providing That This Act May Be Cited As "The 1945 Bond Validating Act", and Providing Further That Nothing Contained in This Act Shall Be Construed or Interpreted to Validate, Ratify, Approve or Confirm Any Bonds, Debentures, Certificates, Instruments or Other Obligations Issued by the Montana Armory Board, and Repealing Chapter Four (4) of the Session Laws of the Twenty-ninth Legislative Assembly of the State of Montana and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Name of act.

Section 1. This act may be cited as "the 1945 bond validating act."

Definitions.

Section 2. The following terms, wherever used or referred to in this act, shall have the following meaning:

"Public body."

(a) The term "public body" shall include a county, city, town, school district, irrigation district, drainage district, special improvement district, or any other political or governmental subdivision of the State of Montana, and shall also include the state board of education, the state board of examiners, the state water conservation board, the state highway commission or any other governmental agency of this state.

"Bonds."

(b) The term "bonds" shall include bonds, notes, warrants, debentures, certificates of indebtedness, temporary bonds, temporary notes, interim receipts, interim cer-

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tificates and all instruments or obligations evidencing or representing indebtedness, or evidencing or representing the borrowing of money, or evidencing or representing a charge, lien or encumbrance on specific revenues, income or property of a public body, including all instruments or obligations payable from a special fund.

Validation of bonds.

Section 3. All bonds heretofore issued by resolution or authorized by an election held prior to the effective date of this act for any of the purposes for which bonds may be issued by any public body of this state and all proceedings heretofore taken for the authorization and issuance of bonds by such public body, and the sale, exchange, execution and delivery thereof are hereby validated, ratified, approved and confirmed, notwithstanding any lack of power (other than constitutional) of such public body, or the governing board or commission or officers thereof, to authorize and issue such bonds, or to sell, exchange, execute or deliver the same, and notwithstanding any defects or irregularities (other than constitutional) in such proceedings or in such sale, exchange, execution or delivery; and bonds of such public bodies, whether issued or hereafter issued under the authority of proceedings heretofore taken, are and shall be binding, legal, valid and enforceable obligations of such public body. Nothing contained in this act shall be construed or interpreted to validate, ratify, approve or confirm any bonds, debentures, certificates, instruments or other obligations issued by the Montana armory board.

Exception as to Montana armory board obligations.

Repealing clause.

Section 4. That Chapter Four (4) of the Session Laws of the twenty-ninth legislative assembly of the State of Montana, and all acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 5. This act shall be in full force and effect from and after its passage and approval.

Approved March 8, 1945.

CHAPTER 197

An Act Amending Section 1805.77, Revised Codes of Montana 1935 Authorizing and Empowering the State Board of Land Commissioners to Sell Mortgage Lands on Advertising for Sealed Bids and at Private Sale, and Des-

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ignating the Terms of Such Private Sales of Mortgage Lands, and Repealing Section 1805.78 Revised Codes of Montana, 1935.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 1805.77, R. C. 1935, amended.

Section 1. Section 1805.77 Revised Codes of Montana 1935 is hereby amended to read as follows:

Mortgage lands may be sold on advertising and sealed bids.

"Section 1805.77. **Mortgage Lands May Be Sold On Advertising for Sealed Bids.** Mortgage lands may also be advertised and sold at other than the regular sales of state lands at county seats whenever the board so orders, but such lands shall not be advertised and sold for less than the appraised value, and in all such cases the sale shall be at the office of the commissioner of state lands and investments at Helena, by means of sealed bids. Before mortgage lands can be so sold notice of the sale containing substantially the same information as the notice for the sale of other state lands must be given by publication once each week for three (3) successive weeks in the official county paper of the county where the land is located. Sealed bids shall then be received by the commissioner not less than twenty (20) nor more than thirty (30) days from the date of the last publication of the notice of sale, and this date must be given in the notice. All bids must be accompanied by cash or a certified check for at least twenty per cent (20%) of the total amount bid, and in case the balance on the purchase price is not an exact multiple of twenty-five ($25.00) dollars, then he shall pay such additional sum as is necessary to reduce the balance to an even multiple of twenty-five ($25.00) dollars; he shall also in all cases pay the sum of five ($5.00) dollars as a fee for each certificate of purchase to be issued to him.

Payment of unpaid balance of purchase price, and interest thereon.

The balance of the purchase price shall draw interest at the rate of five per cent (5%) per annum, payable annually, and the balance of the purchase price itself shall be payable through a period of twenty (20) years on the amortization plan, which is hereby defined as being that plan under which part of the principal is required to be paid each time interest becomes due and payable, and under which this part payment on the principal increases at each succeeding installment in the same amount that the interest payment decreases so that the combined amount due on principal and interest on each due date remains the same

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until the loan or bond is paid in full; provided, however, that the amount of the last installment may vary from the other installments to the extent resulting from disregarding fractional cents in the previous installments.

Preference right of lessee.

On such date the bids shall be opened and the lessee of the lands shall be notified in writing of the highest bid, and if the lease of such lessee is in good standing the lessee shall be granted the preference right to purchase the lands at the highest bid made by any other bidder. If no bid is received the lessee shall be so notified and advised he may purchase at the advertised price.

Purchaser to settle with lessee for improvements.

In the event some other person than such lessee becomes the purchaser he shall be required to make settlement with such lessee for all improvements on the land belonging to the lessee before the issuing of a certificate of purchase or deed. All provisions of the act relating to the payment and settlement for improvements on state lands between a former lessee and a new lessee shall apply to the settlement on mortgage lands between a lessee and purchaser. The purchaser of the lands shall be given possession by the state on March first next succeeding the date of the sale.

Confirmation of sales.

All sales of mortgage lands shall be subject to the approval and confirmation by the state board of land commissioners and no sale shall be deemed completed until after such approval and confirmation.

Private sale, when.

After mortgage lands have once been advertised for sale either at the office of the commissioner or at a sale of state lands at the county seat of the county where they are located, and the same have not been sold, they may be sold by the commissioner at private sale at any time within two (2) years from the date fixed for the sale under the previous notice to any qualified person who will pay the appraised price as advertised and make the required initial payment."

Repealing clause.

Section 2. Section 1805.78 Revised Codes of Montana 1935 is hereby repealed.

Approved March 8, 1945.

CHAPTER 198

An Act to Revive Sections 12,522, 12,523, 12,528, 12,530, 12,531 and 12,534, Revised Codes of Montana, 1935, Re-

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pealed by Chapter 32, Laws of 1943; and to Repeal Section 3, Chapter 32, Laws of 1943; Relating to Appointment of Executive Board of the State Vocational School for Girls; the Oath and Bond of Members; the Meetings of the Board and Compensation of Members; Annual Report of Executive Board and Vacancies; Term of Office of Ex-officio and Other Members; Powers of the Executive Board; to Provide for the Appointment of An Executive Board; All of the Above Laws and Sections Relating to the State Vocational School for Girls.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 12,522, R. C. 1935, revived.

Section 1. That Section 12,522 of the Revised Codes of Montana, 1935, repealed by Chapter 32, the Laws of 1943 be, and the same is hereby expressly revived to read as follows:

Executive board.

"Section 12,522. **Executive Board.** There shall be an executive board, consisting of three members, to have a general supervision or control of said institution, two of whom shall be women and all of whom shall be citizens of the state, appointed by the governor, by and with the consent of the state board of education, and the principal of said institution shall be an ex-officio member of said board, without a vote."

Sec. 12,523, R. C. 1935, revived.

Section 2. That Section 12,523 of the Revised Codes of Montana, 1935, repealed by Chapter 32, the Laws of 1943, be, and the same is hereby expressly revived to read as follows:

Oath and bond of members.

"Section 12,523. **Oath and Bond of Members.** As soon as notified of such appointment each member of said executive board shall, before entering upon the duties of her or his office, take and subscribe to the oath before any qualified officer qualified to administer oaths, that she or he will faithfully perform the duties of her or his office according to law and she or he shall give a bond to the State of Montana in the sum of five thousand dollars, with good and sufficient sureties, conditioned for the faithful performance of her or his duties, which bond shall be filed in the office of the secretary of state."

Sec. 12,528, R. C. 1935, revived.

Section 3. That Section 12,528 of the Revised Codes of Montana, 1935, repealed by Chapter 32, the Laws of 1943, be and the same is hereby expressly revived to read as follows:

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"Section 12,528. **Meetings of Board—Compensation of Members.** The regular meetings of said board shall be held on the first Tuesdays of March, June, September, and December of each year, and special meetings may be held by order of the chairman or any two members of said board, at the place chosen for its permanent office, and each member shall receive for her or his services as member of said board, five dollars per day and actual traveling expenses incurred while attending meetings, or in attending to the transaction of any business by and under the direction of said board."

Meetings of board.

Compensation of members.

Section 4. That Section 12,530 of the Revised Codes of Montana, 1935, repealed by Chapter 32, the Laws of 1943, be, and the same is hereby expressly revived to read as follows:

Sec. 12,530, R. C. 1935, revived.

"Section 12,530. **Annual Report of Executive Board—Vacancies.** The executive board of said school shall, on or before the first Monday in June each year, make a detailed statement and report of all its transactions and of the condition of the institution, including the number of officers, teachers, and employees with the salary or wages paid to each, and a detailed statement of all expenses and disbursements of said institution, which report shall contain such other information or recommendations as may be required by the state board of examiners or the state board of education. All vacancies occurring in the membership of the executive board shall be filled by appointment by the governor, with the approval of the state board of education."

Annual report of executive board.

Vacancies.

Section 5. That Section 12,531 of the Revised Codes of Montana, 1935, repealed by Chapter 32, the Laws of 1943, be, and the same is hereby expressly revived to read as follows:

Sec. 12,531, R. C. 1935, revived.

"Section 12,531. **Term of Office of Ex-officio and Other Members.** The ex-officio member of the executive board shall hold office while principal of the school, and those members appointed by the governor shall hold office for the terms of two years, three years, and four years, respectively, from and after the third Monday in April of the year appointed, unless sooner removed by the governor, by and with the consent of the state board of education."

Term of office of ex-officio and other members.

Section 6. That Section 12,534, of the Revised Codes of Montana, 1935, repealed by Chapter 32, the Laws of 1943,

Sec. 12,534, R. C. 1935, revived.

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be, and the same is hereby expressly revived to read as follows:

Powers of executive board.

"Section 12,534. **Powers of Executive Board.** The executive board shall have power and authority, under the direction and subject to the approval of the governor and the state board of education, to regulate the activities of the school, and from time to time, as may be necessary, to erect additional buildings, make all needful improvements, purchase machinery and tools and implements to be used in any of the industrial activities taught in said school, and have general supervision and control of the institution, and may make such rules for its management and control as may be necessary; provided, that no rule made by the board shall be in conflict with the provisions of the constitution or laws of the state; and provided further, that such buildings and improvements shall not exceed in cost the sum appropriated for such purpose."

Repealing clause.

Section 7. That Section 3 of Chapter 32, the Laws of 1943, be, and the same is hereby repealed.

Construction of act.

Section 8. The effect of this act shall be construed to be, that the executive board shall continue to exist as before Chapter 32, Laws of 1943, became law and as if it had not become law.

Repealing clause.

Section 9. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 10. This act shall be in full force and effect on and after its passage and approval.

Approved March 8, 1945.

CHAPTER 199

An Act to Amend Sections 2, 7, 8, 9, 20, 21 and 26 of Chapter 208 of the Session Laws of Montana, 1939, Relating Respectively to the Definition of Commensurate Property; Standardizing the Forms Providing for Repeals; Regulating the Incorporation of Districts; Defining Preferential Rights; Fixing the Time of Filing Appeals; and Providing Penalties for Trespassing; *Providing for Fencing Boundaries; Abandonment of Districts; Preferences to Range; the Taking Up and Sale of Trespassing Livestock;* All Relating to the Grass Conservation Act;

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and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 2 of Chapter 208, Session Laws of Montana, 1939, be, and the same is hereby amended to read as follows: Sec. 2, Chap. 208, laws of 1939, amended.

"Section 2. The following words and phrases used in this act shall take the following interpretations: Definitions.

1. 'The commission' means 'the Montana grass conservation commission'. "The commission."

2. 'State district' means a non-profit cooperative organization incorporated under the provisions of this act and its board of directors. 'State district' also includes all lands, owned or controlled by the state district or its members. "State district."

3. 'Range' is the land within a grazing district upon which grazing permits are granted to maintain livestock through the established grazing period. "Range."

4. 'Permits' are evidence of grazing privileges granted by state districts. "Permits."

5. 'Grazing preference' is a right to obtain a grazing permit from a state district. It is attached to dependent commensurate property except as provided in this act. "Grazing preference."

6. 'Secretary' means the state secretary to the state grass conservation commission appointed under this act. "Secretary."

7. 'Person' means natural person or persons, unincorporated associations, partnerships, corporations and governmental departments or agencies. "Person."

8. 'Commensurate property' means land privately owned or controlled which is not range as herein defined. "Commensurate property."

9. 'Dependent commensurate property' is commensurate property which requires the use of range in connection with it to maintain its proper use, and which produces or whose owner furnishes as part of his past customary practice the proper feed necessary to maintain livestock during the time other than the established grazing period on the range, and which has been used in connection with the range for a period of any three years or for any two consecutive years in the five-year period immediately preceding June 28, 1934; *or in the case of districts organized after March* "Dependent commensurate property."

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15, 1945, for a five (5) year period immediately preceding the date of organization of such districts.

"Animal unit." 10. 'Animal unit' means one cow, one horse, or five sheep, six months old or over.

"Assessment." 11. 'Assessment' means a special levy imposed on permittee members by the state district to raise funds for specific purposes as provided in paragraph 6, section 12. 'Assessment' does not include fees.

12. All other words used herein shall receive the usual and ordinary interpretation."

Sec. 7, Chap. 208, laws of 1939, amended. Section 2. That Section 7 of Chapter 208, Session Laws of Montana, 1939, be, and the same is hereby amended to read as follows:

Powers of the commission. "Section 7. The Montana grass conservation commission shall have the powers enumerated by the act, and shall have such other and further powers as shall be necessary and incidental to fully carry out such enumerated powers, and shall also have such other and further powers as shall be necessary and incidental to fully carry out the purpose and intent of this act. The powers of the Montana grass conservation commission shall include the power:

In respect to state districts and incorporated grazing associations. 1. To prepare and standardize various forms to be used by the state districts. To supervise or regulate the organization and operation of all state districts incorporated under this act, or grazing associations incorporated under Chapter 66, Laws of 1933, or Chapter 195, Laws of 1935, in accordance with the provisions of this act. To require any grazing association claiming to be incorporated under Chapter 66, Laws of 1933, or Chapter 195, Laws of 1935, but which has not completed its internal organization or not functioning, to complete its organization under this act within a reasonable time. In default thereof the commission may declare the said association dissolved and same shall be thereupon dissolved. In the event that any state district or the directors of any state district shall fail to comply with an order of the commission, said commission may order a hearing thereon within the district or county and cite said directors of said district to appear before said board; and if upon said hearing it appears that said board members refuse to perform the duties of their office as herein defined and as set forth in the articles of incorporation and the by-laws of said association, or refused to comply with a lawful order of said commission, the members of said board of directors

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may be summarily removed from office, and thereupon said district shall elect new officers. During such period until such new election the commission shall have the authority to operate and manage the affairs of such state district or to delegate such authority to the secretary or other suitable person or persons. The expense of operating and managing the affairs of a non-complying state district shall be paid by such non-complying state district before it can be reinstated.

Dissolution of state districts—procedure.

In the event any state district organized under this act ceased to function and it appears to the commission that the reinstatement and future operation of such district is no longer feasible, beneficial and desirable to those who own or control more than fifty per cent (50%) of the lands included in such district, the commission, upon thirty (30) days notice in writing, to be published for two (2) consecutive weeks in a newspaper of general circulation in or nearest to said district, may declare such district dissolved and same shall thereupon be dissolved. A notice of dissolution shall be filed by the commission with the secretary of state and the clerk and recorder of the county or counties in which said district is located.

To subpoena witnesses.

2. To issue citations directed to any person requiring his attendance before the commission, and to subpoena witnesses and pay such expenses as would be allowed in a court action.

To require submission of state district records.

3. To require any officer or director of a state district to submit any or all records of such state district to the commission for the purpose of aiding any investigation conducted by or under the authority of the commission or the secretary.

To delegate powers to hold hearings.

4. To delegate to the secretary or any one or more of its members the power and authority to hold hearings on any matters affecting the commission. The secretary or any such members so delegated shall make a full report of such hearings to the commission.

5. To require state districts to furnish itemized financial reports annually.

With respect to employees.

6. The commission shall have the power to hire or discharge employees and legal counsel; to fix their wages or salaries and to designate their duties, and may incur such other expenses as may be necessary for the proper performance of its duties and the exercise of its powers.

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To cooperate with other agencies.

7. To fully cooperate and enter into agreements on behalf of a state district, with its consent, with any governmental sub-division, department, or agency, in order to promote the purposes of this act."

Sec. 8, Chap. 208, laws of 1939, amended.

Section 3. That Section 8 of Chapter 208, Session Laws of Montana, 1939, be, and the same is hereby amended to read as follows:

Appeals.

"Section 8. Appeals may be taken from the decisions of *any state district to the commission,* and the commission shall have jurisdiction to hear and decide all such appeals. An appeal from the decision *of the state district* may be taken by filing a notice of appeal with the commission within sixty (60) days after the rendition of the decision by *said state district* and notice served upon the interested parties, or their attorneys, by registered mail by *the secretary of the state district.* The appeal to the commission shall be taken and review thereof had upon the record of the hearing conducted by the secretary *and considered by the state district, provided, however, the commission may, in its discretion, and for good cause shown, permit additional testimony to be submitted,* and the decisions of said commission shall contain findings of fact which shall be conclusive except for the right to a judicial review as hereinafter provided.

Appeals from decisions of commission.

An appeal from the decision of said commission may be taken to the district court wherein a portion of lands in said district lies. An appeal to the district court may be taken by filing notice of appeal with said district court within thirty (30) days after the rendition of the decision by said commission and notice thereof given to the interested parties, or their attorneys, by registered mail, *and executing and filing a bond to the commission, with surety to be approved by the secretary of the commission, conditioned to prosecute such appeal to effect and to pay all costs that may be adjudged against the appellant, costs to be taxed as in district court proceedings.* Thereafter the said commission must file with the clerk of such district court a transcript of the record of the hearing conducted by the secretary *and considered by the state district* and of the decision of said commission. The appeal by the district court may be upon the record on file with said commission *subject to objections as to relevancy, competency, or materiality of any part or portion of such records or testimony therein*

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contained in the determination of the legal rights of the parties involved, or the district judge of said district may take additional evidence to supplement said record."

Sec. 9, Chap. 208, laws of 1939, amended.

Section 4. That section 9 of Chapter 208, Session Laws of Montana, 1939, be, and the same is hereby amended to read as follows:

"Section 9. Whenever three or more persons who own or control commensurate property and are livestock operators within the area proposed to be created into a state district, shall decide to incorporate a state district, they shall submit a statement in writing to the commission together with a plat showing the proposed boundaries of the area. Such statement shall set forth the name of the proposed state district; the county or counties in which such proposed state district is located; and the names and addresses of all operators of land and livestock units within said area. The commission may then require any additional information it may deem necessary. On receipt of said statement and plat and such additional information, the commission shall fix the time and place of a hearing for approval within the district or county, which shall not be less than thirty days or more than sixty days after receipt of said statement. The persons deciding to incorporate said state grazing district shall then cause notice of said hearing to be given by publishing a notice prescribed by the commission once a week for two *consecutive* weeks, the first publication to be at least thirty days prior to the date of hearing, in a newspaper of general circulation in such area. The secretary, for and on behalf of the commission, shall hear evidence offered in support of, or in opposition to the creation of said state district, and shall make a full inquiry into the advisability of the creation thereof; the record taken upon the hearing, together with the report of the secretary, shall be submitted to the commission. If the creation of said state district shall appear feasible, beneficial and desirable to those who own or control more than fifty per cent of the lands to be included in such district the commission may issue a certificate of approval."

Incorporation of state districts.

Sec. 20, Chap. 208, laws of 1939, amended.

Section 5. That Section 20 of Chapter 208, Session Laws of Montana, 1939, be, and the same is hereby amended to read as follows:

"Section 20. When a state district is organized, grazing preferences shall be distributed in the following manner:

Distribution of grazing preferences.

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Any member of a state district owning or controlling dependent commensurate property as heretofore defined may be given a grazing preference. If the carrying capacity of the range exceeds the reasonable needs of members owning or controlling dependent commensurate property, members owning or controlling commensurate property shall have the preference. If the carrying capacity of the range exceeds the reasonable needs of members owning or controlling dependent commensurate property or commensurate property, temporary grazing permits may be issued to non-members *or members,* preferring those that have used the range for any three or any two consecutive years in the five-year period immediately preceding June 28, 1934; *or, in the case of districts organized after March 15, 1945, preferring those that have used the range for five (5) years immediately preceding the organization of such districts.* Such temporary permits shall be merely privileges granted from year to year and their possession shall not establish a preference *except as hereinafter provided. When such temporary permit is utilized by a permittee in connection with forage producing lands owned or controlled by such permittee within or near the district for a period of any combination of four years out of five, then the forage producing lands owned or controlled by such permittee may be considered dependent commensurate property, and upon application, the district may accordingly grant such permittee membership and preference in the districts providing an application had been made for temporary rights for each of the five years."*

Temporary permits.

Sec. 21, Chap. 208, laws of 1939, amended.

Section 6. That Section 21 of Chapter 208, Session Laws of Montana, 1939, be, and the same is hereby amended to read as follows:

Application for grazing preferences.

"Section 21. Any person entitled to grazing preferences within any state grazing district based on dependent commensurate property or commensurate property must make application one year after the passage of this act to qualify for said preference; or in the case of state districts hereafter organized, must make application within one year after said district shall have been organized to qualify for said preference; *provided, however, all permittees shall be entitled to benefits accruing under amended section 20 hereof."*

Section 7. That Section 26 of Chapter 208, Session Laws

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of Montana, 1939, be, and the same is hereby amended to read as follows:

Sec. 26, Chap. 208, laws of 1939, amended.

"Section 26. (1) *No owner or person in control of livestock shall permit the same to run at large, or under herd, within the exterior boundaries of any state district, unless the owner or person in control of such livestock* shall first obtain a grazing permit *for same* from *such* state district; *and the owner or person in control of such livestock running at large, or under herd, within a state district, without a permit from the district, or in excess of such permit, shall be liable for all damages sustained thereby by any member, permittee or state district. If any such livestock wrongfully enters upon premises within such district, the owner or person in control of such trespassing livestock, who willfully or negligently permits same to run at large within the district, without first obtaining a permit therefor from the district,* shall be guilty of a misdemeanor and upon conviction thereof, shall be *punished by fine* not less than ten dollars ($10.00), nor more than five hundred dollars ($500.00), *and in addition to said punishment, shall be liable for all damages sustained thereby to the party entitled thereto; provided that this provision shall not require any person to obtain a grazing permit to graze livestock upon land owned or controlled by him within such state district, if the stock so grazed is restrained from running at large within such state district and from grazing upon any other lands within the state district.*

Running at large or in herd without permit forbidden.

Liability of owner.

Penalty.

(2) *The state district or its duly authorized agent controlling the land upon which such wrongful entry is made by trespassing livestock, may take into its possession such livestock and shall reasonably care for same while in its possession and may retain possession of said livestock and have a lien and claim thereon as security for payment of such damages and reasonable charges for the care of said livestock while in its possession and may retain possession of said livestock and have a lien and claim thereon as security for payment of such damages and reasonable charges for the care of said livestock while in its possession. The state district taking up such livestock shall, within seventy-two (72) hours after taking possession thereof, notify said owner, owners, or person in charge thereof, by a notice in writing, describing said livestock by number of animals and brands thereon, if any, the amount of damages claimed to date, and the charge per animal unit per day for caring for*

Trespassing livestock, procedure with respect to.

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and feeding the same thereafter, such damages and charges not to exceed fifty cents (50c) per animal unit per day, and describing by general description, the location of the premises upon which said livestock is held, and requiring such owner or owners, within ten (10) days after receiving said notice, to take said livestock away after making full payment of all damages and costs of said livestock. In case the parties do not agree as to the amount of damages, the state district taking up such livestock, may, at the expense of the owner, retain a sufficient amount of such livestock to cover the amount of damages claimed by the state district. Provided, however, that the owner may, upon furnishing a good and sufficient bond, conditioned for the payment to the state district of all sums, including costs that may be recovered by said state district in a civil action to foreclose its lien, have returned to him of all livestock held as aforesaid, and said state district shall be liable to such owner for any loss or injury to said livestock accruing through the state district's lack of reasonable care. If the state district taking up livestock shall fail to recover in a civil action a sum equal to that offered to the state district by the owner of the livestock, the former shall bear the expense of keeping and feeding same while in its possession. Such notice may be given by personal service on the said owner, owners or person in charge thereof, or by leaving said notice at his usual place of residence with some member of his family over the age of fourteen (14) years, or by sending said notice by prepaid registered mail, addressed to his last known place of residence. Said service by registered mail shall be deemed complete upon the deposit of said notice in the post office. Upon demand, the state district or its authorized agent controlling the land, or party in charge of such livestock, shall release and deliver possession of such livestock to the owner or person entitled thereto, upon payment of damages and charges; but said payment of damages and charges shall not act as a bar to the prosecution of said person, owner or persons in control of such livestock, as hereinbefore provided. If the amount of damages or costs demanded by the party taking up such livestock is in excess of the actual damage and actual costs, the owner or person in charge of such livestock, may pay same under protest and thereafter sue to recover the amount paid in excess of the actual damages and reasonable costs, provided suit to recover same is filed in the district court within sixty (60) days after payment.

Release of livestock to owner.

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If after due diligence to discover the owner or possessor of such livestock, such owner or possessor can not be found, or the ownership of such livestock discovered, the state district taking up such livestock, or said owner or claimant shall refuse to pay the amount of damages or charges, or furnish bonds therefor, as herein provided, the party taking up such livestock shall, within ten (10) days from the time that said livestock was taken up, deliver to the sheriff or a constable of the county in which the livestock was taken up, a statement containing the information required to be given in the notice, hereinbefore set out, and in addition thereto, he shall mail, by prepaid registered mail, a copy of said statement addressed to the nearest state livestock inspector. Upon receipt of such statement, the sheriff or constable shall proceed to advertise and sell, at public auction, the livestock so taken up. Such livestock shall be sold on five (5) days' notice posted at the courthouse of each county in which any portion of the district lies and posted in three (3) public places in such county, one of which shall be within the district. Provided, however, that such sheriff may require from the state district a good and sufficient bond, conditioned that the state district has used reasonable diligence to discover the owner of such stock and to notify him in the premises and that all requirements of law on the part of the state district to be performed in the premises have been performed and indemnifying the sheriff against all liability for the sale of said livestock except as to his own failure to perform the things required of him by law. The proceeds of the sale shall, by the sheriff, after first deducting his costs and expenses, be applied to the discharge of the claims and the costs of the proceedings in selling the property and to the payment of the damages, claims and costs of the party taking up such livestock, and the remainder, if any, may be paid over to the owner of such livestock, if known, and if the owner is not known, then such remainder shall be deposited with the county treasurer, who shall keep the same in a public fund to be designated state grazing district fund (giving the name of the district). A separate fund, styled as above, shall be kept by the county treasurer for each of said districts within his county. The county treasurer shall make a record of the number and type of animals sold and the brands on same, if any, the amount received for same and the amount of deductions, which record shall be open to public inspection; and any person

Procedure when owner is unknown or fails to pay damages required.

Proceeds of sale, disposition of.

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making claim to the board of county commissioners at any time within one year from date of sale, of ownership of such livestock and submitting proof of ownership to such board, with such claim to the satisfaction of such board, shall be entitled to receive such excess received from the sale of such livestock. Any money received from the sale of any such livestock, which shall not be so claimed within one (1) year after such sale, shall, at the expiration of said period, be transferred to the general fund of the county.

Non-liability of officer, board or employee.

(3) No officer, board or employee of any county or of any state district, nor any employee of such officer or board shall be liable for any act performed in good faith in discharging official duties under this act; and all such acts shall be presumed to have been in good faith and in conformity with this act.

Impoundage of trespassing livestock.

(4) The state district, or the party taking up such trespassing livestock, may cause same to be impounded at any suitable place within the state district, or within five (5) miles from the exterior boundaries thereof, and such livestock shall be deemed legally impounded if placed in a corral or upon land enclosed by a legal fence or placed in charge of a herder or herders.

Cost of fences within state districts.

(5) Regarding fences within the external boundaries of state districts; the cost of construction and maintenance of fence enclosing lands controlled by any member, non-member or state district within the external boundaries of such state district, shall be borne by such member, non-member or state district, unless otherwise provided for in the duly approved by-laws of such state district.

State district's share of costs, how paid.

In the event of the adoption of provisions to the by-laws of a state district whereby the cost of construction and maintenance of fence is to be distributed proportionately among the parties affected by such cost of construction and maintenance of fence, the state district's proportionate share of such costs and maintenance shall be financed only by assessments levied by the state district against the permittee members of the district upon consent thereto by fifty-five percentum (55%) of such permittee members."

Construction of act.

Section 8. This act shall not be interpreted to repeal or abolish any other legal remedies, which a member, a permittee, or a state district may now have against trespassing livestock, or the owner or persons in control thereof and the remedies provided by this act are additional and supple-

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mental to the remedies provided by any other laws of the State of Montana.

Saving provision relative to those in the armed services of the United States.

Section 9. Nothing contained in this act shall be held to suspend or remove any privileges and immunities which may be granted to those in the armed services of the United States as provided in what is commonly known as the soldiers and sailors civil relief act of 1940, as amended, for the period of his or her service and for a period of six (6) months thereafter.

Repealing clause.

Section 10. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 8, 1945.

CHAPTER 200

Title of act.

An Act to Amend Section 1760 of the Revised Codes of 1935 As Amended by Chapter 138 of the Laws of Montana Enacted by the Twenty-fifth Legislative Session of 1937, As Amended by Chapter 125 of the Laws of Montana Enacted by the Twenty-sixth Legislative Session of 1939, As Amended by Chapter 154 of the Laws of Montana Enacted by the Twenty-eighth Session Laws of 1943 and All Other Acts Amendatory Thereof; Relating to Allocation of Net Fees Derived from Registration of Motor Vehicles to Cities Having a Population of 10,000 or More, or Construction of Highways Within the Boundary of Such Incorporated Cities, and Relating to Disposition of Motor Vehicle Taxes and License Fees, Relating to Registration of Motor Vehicles, Fees, Disposal of Proceeds, Fee for Half Year, Dealers' Registration and Transfer Thereof, and Exempting Public Owned Vehicles; and Providing Fees for Tractors, Defining Same, and Fees for Trailers and Semi-trailers and Providing for Disposition of Said Fees and License Fees, and Providing for Transfer from the Motor Vehicle Fund of the Registrar of Motor Vehicles to the Motor Vehicle Recording Fund (Sometimes Called the Motor Vehicle Administrative Fund) of All Moneys Now in Said Motor Vehicle Fund Which Were Collected By the Registrar As Fees Other Than License Fees, and Providing That Hereafter All Fees, Other Than License Fees, Except Dealer License Fees, Mentioned and Described in Sections 1758.3 and 1758.4, Both As Amend-

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ed By Chapter 72 of the Laws of the Twenty-fifth Legislative Assembly of the State of Montana for 1937, and All Other Acts Amendatory to Either of Such Sections, and in Section 1763.3 of the Revised Codes of Montana for 1935, Shall Be Deposited in the Motor Vehicle Recording Fund of Said Registrar (Sometimes Called the Motor Vehicle Administrative Fund): and Providing for the Distribution of Moneys in Said Motor Vehicle Recording Fund (Sometimes Called the Motor Vehicle Administrative Fund), and Eliminating As An Expense to the Counties of the Making and Delivering of License Plates and Identification Marks, Certificates and All Other Expenses of Operating the Motor Vehicle Department of the State of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 1759.3, R. C. 1935, as amended, further amended.

Section 1. That Section 1759.3 of the Revised Codes of Montana for 1935, as amended by Chapter 72 of the Laws of the twenty-fifth legislative assembly of the State of Montana for 1937, and all other acts amendatory thereof be and the same is hereby amended to read as follows:

"Section 1759.3. **Disposition of Taxes and License Fees Collected and Method of Payment of Expenses of Costs of Making and Delivering License Plates and Identification Marks, Certificates and All Other Expense of Operating the Motor Vehicle Department.** The county treasurer shall credit all taxes on motor vehicles so collected to a motor vehicle suspense fund and, at some time between March 1 and March 10 of each year, and every sixty (60) days thereafter, the county treasurer shall distribute the same in relative proportions required by the levies for state, county school district and municipal purposes in the same manner as other personal property taxes are distributed. All motor vehicle license fees collected by the county treasurer shall be credited to the motor vehicle license fund hereby established. The cost of making and delivering license plates and identification marks, certificates, and all other expense of operating the motor vehicle department of the State of Montana, shall be paid out of the motor vehicle recording fund (sometimes called the motor vehicle administrative fund); provided, however that each county shall receive its pro-rata share of any license fees, except dealer license fees, paid to the registrar of motor vehicles. The remainder in said county motor vehicle license fund shall

Taxes distributed by county treasurer.

Fees credited to motor vehicle license fund.

Cost of making license plates, from what fund paid.

License fees pro-rated

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be transferred by the county treasurer at the end of each month to the road fund of said county and shall be used by the county for the purpose set forth in section 1760."

Disposition of balance of motor vehicle license fund.

Section 2. That Section 1760 of the Revised Codes of Montana for 1935 as amended by Chapter 138 of the Laws of the twenty-fifth legislative assembly of the State of Montana for 1937, and all other acts amendatory thereof be and the same is hereby amended to read as follows:

Sec. 1760, R. C. 1935, as amended, further amended.

"Section 1760. **Registration Fees of Motor Vehicles—Fees—Disposal of Proceeds—Fee for Half Year—Dealers' Registration and Transfer Thereof—Public Owned Vehicles Exempt From License or Registration Fees—License or Registration Fees for Trailers and Semi-trailers and Tractors, and Defining Same—Providing for Transfer of Funds From the Motor Vehicle Fund of the Registrar of Motor Vehicles to the Motor Vehicle Recording Fund (Sometimes Called the Motor Vehicle Administrative Fund)—Providing for Deposit of All Fees, Other Than License Fees, Except Dealer License Fees, Collected by the Registrar of Motor Vehicles, in Said Motor Vehicle Recording Fund for the Payment of the Registrar of Motor Vehicles, Registration or License Fees Shall Be Paid Upon Registration or Re-registration of Motor Vehicles or Automobile Accessories in Accordance With This Act, As Follows:**

Registration fees to be paid.

Dealers in motor vehicles other than motorcycles, a minimum fee of thirty ($30.00) dollars which shall entitle such dealer to two (2) sets of number plates, and five ($5.00) dollars additional fee for each additional set of number plates up to six (6) sets, and two ($2.00) dollars additional fee for each additional set of number plates, as may be applied for by such dealer; provided, that each dealer be required to furnish the registrar of motor vehicles a statement showing the makes of motor vehicles handled by him, and the total number of each make sold by him during the preceding year, and that he not be issued a license unless he so conforms;

Dealers, amount of fee.

Statement by dealer.

Dealers in motorcycles, fifteen ($15.00) dollars;

Motorcycles.

Dealers in automobile accessories, except automobile dealers, ten ($10.00) dollars;

Accessories.

Motor vehicles, weighing twenty-eight hundred and fifty

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Vehicles weighing 2850 pounds or under.

(2850) pounds, or under, other than motor trucks, five ($5.00) dollars;

Vehicles, other than trucks, weighing over 2850 pounds.

Motor vehicles, weighing over twenty-eight hundred and fifty (2850) pounds, other than motor trucks, ten ($10.00) dollars;

Passenger vehicles electrically driven.

Electrically driven passenger vehicles, ten ($10.00) dollars;

Motorcycles.

All motorcycles, two ($2.00) dollars;

Tractors and trucks.

Tractors and/or trucks of one (1) ton capacity or under, five ($5.00) dollars;

Same, over one-ton capacity.

Tractors and/or trucks over one (1) ton and up to and including one and one-half (1½) tons capacity, ten ($10.00) dollars;

Same, over 1½ tons capacity.

Tractors and/or trucks over one and one-half (1½) tons and up to and including two (2) tons capacity, twenty-two dollars and fifty cents ($22.50);

Same, over 2 tons.

Tractors and/or trucks over two (2) tons and less than three (3) tons capacity, thirty-seven dollars and fifty cents ($37.50);

Same, over 3 tons.

Tractors and/or trucks of three (3) tons and less than five (5) tons capacity, sixty ($60.00) dollars;

Same, over 5 tons.

Tractors and/or trucks of five (5) tons capacity and over, two hundred ($200.00) dollars; provided that tractors shall not be construed as meaning farm tractors used on

Farm tractors.

farms or tractors used solely in logging operations but only such tractors as are part of a unit to haul over the highways:

Busses.

Busses shall be classed as motor trucks and licensed accordingly;

Trailers, over 1000 pounds.

Trailers and semi-trailers, over one thousand (1000) pounds and not over one (1) ton capacity, two ($2.00) dollars;

Trailers, according to capacity.

Trailers and semi-trailers, over one (1) ton and less than two (2) ton capacity, fifteen ($15.00) dollars; over two (2) ton and less than three (3) ton capacity, twenty ($20.00) dollars; over three (3) ton and less than four (4) ton capacity, twenty-five ($25.00) dollars; over four (4) ton and less than five (5) ton capacity, thirty ($30.00) dollars; over

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five (5) ton capacity, two hundred ($200.00) dollars; provided that trailers owned by farmers and used in the transportation of his own livestock and his own farm produce with a five (5) ton capacity or more, shall be excluded from such provisions and the fee shall be five ($5.00) dollars. And be it further provided that trailers used exclusively in the transportation of logs in the forest or in the transportation of oil and gas well machinery, road machinery and bridge material exclusively, new and second-hand, and trailers used exclusively for the transportation of road machinery and bridge materials, shall pay a fee of fifteen ($15.00) dollars annually, regardless of size or capacity.

Trailers owned by farmers.

Trailers used for logs or machinery.

All rates to be twenty-five per cent (25%) higher for motor vehicles, trailers and semi-trailers, when not equipped with pneumatic tires;

Rates as affected by tires.

Bicycles with motor attachments, one ($1.00) dollar;

Motor bicycles.

Tractors, as specified in this section, shall mean any motor vehicle used for towing a trailer or semi-trailer.

"Tractors" defined.

All license or registration fees collected by the county treasurer of the county in which any motor vehicle is registered shall be credited to the motor vehicle license fund of said county. The funds in said county motor vehicle fund shall be used as follows:

Fees to be credited to motor vehicle license fund.

Use of funds.

(a) Fifty per cent (50%) of the net license fees derived from the registration of motor vehicles, the owners of which reside within the boundaries of any incorporated city of the State of Montana, having a population of thirty-five thousand (35,000), or more, according to federal census of 1930, *and twenty-five per cent (25%) of the net license fees derived from the registration of motor vehicles, the owners of which reside within the boundaries of any city in the State of Montana having a population of ten thousand (10,000), or more, according to the federal census of 1940, and which city is situated in a county which has an area of less than seven hundred and fifty (750) square miles,* shall be held by county treasurer and segregated from other county road funds and be designated as 'city road fund', to be used in city from which fees were derived for the construction of permanent streets within the incorporated limits of such city.

Portion segregated for city road funds.

(b) The license fees held in the city road fund, as hereinabove provided, *at the end of each thirty (30) day period*

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beginning March 1, 1945, be paid by the county treasurer to the city treasurer to be held by such city treasurer in a separate fund designated as the 'city road fund', shall be used by the city council of such city having the population of thirty-five thousand (35,000), or more, according to the federal census of 1930, *or by the city council of such city having a population of ten thousand (10,000), or more, according to the federal census of 1940 and situated in a county which has an area of less than seven hundred and fifty (750) square miles, only for the construction of permanent highways and streets within the boundaries of such incorporated city.* Provided, that all construction of public highways and streets, the cost of which is to be paid out of the fund derived from the license fees as herein provided, shall be under the supervision of the county surveyor of the county within whose boundaries such city is situated, subject to the control of the said city council and surveyor to designate the public highway or street upon which the work is to be done and the type of pavement to be used, and provided further, that the cost of supervision of the county surveyor shall not exceed five per cent (5%) of the cost of said work.

Use of city road fund by city council.

Supervision of construction by county surveyor.

(c) The net license fees derived from the registration of motor vehicles shall be by the registrar of motor vehicles transmitted to, and paid over to the county treasurer of the county from which the registration fee came, such fees excepting apportionment to city road fund, to be used by said county for the construction, repair and maintenance of all public highways, except state and federal highways, within the boundaries of said county, including city streets forming component parts of arterial highways within the corporate cities of less population than thirty-five thousand (35,000), according to the federal census of 1930, *other than any corporate city entitled to receive or expend the 'city road fund', within the boundaries of said county.*

Disposition of net fees from registration.

If any dealer, or motor vehicle, or trailer, or semi-trailer is originally registered six (6) months after the time of registration as set by law, the registration or license fee for the remainder of such year shall be one-half (½) of the regular fee above given.

Part-year registration fee.

A dealer in motor vehicles or automobile accessories who shall maintain more than one (1) place of business or who shall maintain any branch establishment or establishments,

Branch establishments.

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must registrar and pay a registration or license fee for each such place of business or establishment.

Transfer of registration certificate.

A registered dealer, who may sell or dispose of his entire business to any other person, may have his certificate of registration transferred to such purchaser upon filing with the registrar of motor vehicles a statement containing the name of the registered dealer, the number under which such dealer is registered, the name of the purchaser, and the location of the place of business so sold. Upon the filing of such statement, accompanied by a filing fee of one ($1.00) dollar, the registrar of motor vehicles shall note upon the registration record of such dealer the change of ownership. But no certificate of registration can be transferred unless the entire business of the dealer holding such certificate of registration be sold and disposed of, and no such certificate of registration can be transferred to any person other than the purchaser of such business.

Filing fee.

Limitation upon transfers.

Act not applicable to vehicles owned by United States.

The provisions of this act with respect to the payment of registration fees shall not apply to or be binding upon motor vehicles, trailers or semi-trailers or tractors owned or controlled by the United States of America or any state, county or city, but in all other respects the provisions of this act shall be applicable to and binding upon motor vehicles, tractors, trailers and semi-trailers.

Motor vehicle recording fund, what fees paid into.

All fees, other than license fees, mentioned and described in Section 1758.3 and 1758.4, both as amended by Chapter 72 of the Laws of the twenty-fifth legislative assembly of the State of Montana for 1937, and all other acts amendatory to either of such sections, and in Section 1763.3 of the Revised Codes of Montana for 1935, shall hereafter be deposited in, and paid into, the motor vehicle recording fund of said registrar (sometimes called the motor vehicle administrative fund), out of which shall be paid all salaries, operating expenses, and all other expenses of the department of the registrar of motor vehicles.

Transfer of funds to motor vehicle recording fund.

There shall be immediately transferred from the motor vehicle fund of the registrar of motor vehicles to the said motor vehicle recording fund all moneys now in said motor vehicle fund which were collected by the registrar of motor vehicles as fees other than license fees.

Whenever, in the judgment of the state board of examiners, there shall be in said motor vehicle recording fund

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Excess in said fund, disposition of.

more moneys than are reasonably required or needed to pay all salaries, operating expenses, and all other expenses of the department of the registrar of motor vehicles, such board shall distribute such unneeded surplus or excess to the fifty-six (56) counties of the state in a pro-rata manner based upon the total number of motor vehicles registered in each county."

House Bill 157, laws 1945, not affected by this act.

Section 3. Nothing herein contained shall in any way repeal or amend any of the provisions of house bill No. 157 of the twenty-ninth legislative assembly of the State of Montana, 1945.

Approved March 13, 1945.

CHAPTER 201

Title of act.

An Act to Amend Section 1760 of the Revised Codes of Montana for 1935, As Amended by Chapter 138 of the Laws of the Twenty-fifth Legislative Assembly of the State of Montana for 1937 and by Chapter 125 of the Laws of the Twenty-sixth Legislative Assembly of the State of Montana for 1939 and by Chapter 154 of the Laws of the Twenty-eighth Legislative Assembly of the State of Montana for 1943, Relating to Registration of Motor Vehicles, Fees, Disposal of Proceeds, Fee for Half Year, Dealers' Registration and Transfer Thereof, and Exempting Public Owned Vehicles; and Providing Fees for Tractors, Defining Same, and Fees for Trailers and Semi-trailers, and Providing for Disposition of Said Fees and License Fees, and Providing for Transfer from the Motor Vehicle Fund of the Registrar of Motor Vehicles to the Motor Vehicle Recording Fund (Sometimes Called the Motor Vehicle Administrative Fund) of All Moneys Now in Said Motor Vehicle Fund Which Were Collected by the Registrar As Fees Other Than License Fees, and Providing That Hereafter All Fees, Other Than License Fees, Except Dealer License Fees, Mentioned and Described in Sections 1758.3 and 1758.4, Both As Amended by Chapter 72 of the Laws of the Twenty-fifth Legislative Assembly of the State of Montana for 1937, and All Other Acts Amendatory to Either of Such Sections, and in Section 1763.3 of the Revised Codes of Montana for 1935, Shall Be Deposited in the Motor Vehicle Recording Fund of Said Registrar (Sometimes Called the Motor Ve-

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hicle Administrative Fund); and Providing for the Distribution of Moneys in Said Motor Vehicle Recording Fund (Sometimes Called the Motor Vehicle Administrative Fund).

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 1760 of the Revised Codes of Montana for 1935, as amended by Chapter 154 of the Laws of the twenty-eighth legislative assembly of the State of Montana for 1943, and all other acts amendatory thereof, be and the same is hereby amended to read as follows:

"Section 1760. **Registration Fees of Motor Vehicles—Fees—Disposal of Proceeds—Fee for Half Year—Dealers' Registration and Transfer Thereof—Public Owned Vehicles Exempt from License or Registration Fees—License or Registration Fees for Trailers and Semi-Trailers and Tractors, and Defining Same—Providing for Transfer of Funds from the Motor Vehicle Fund of the Registrar of Motor Vehicles to the Motor Vehicle Recording Fund (Sometimes Called the Motor Vehicle Administrative Fund)—Providing for Deposit of All Fees, Other Than License Fees, Except Dealer License Fees, Collected by the Registrar of Motor Vehicles, in Said Motor Vehicle Recording Fund for the Payment of Expenses of the Maintenance and Operation of the Department of the Registrar of Motor Vehicles.** Registration or license fees shall be paid upon registration or re-registration of motor vehicles, trailers, semi-trailers and dealers in motor vehicles or automobile accessories in accordance with this act, as follows:

Registration or license fees of motor vehicles.

"Dealers in motor vehicles other than motorcycles, a minimum fee of thirty dollars ($30.00) which shall entitle such dealer to two (2) sets of number plates, and five dollars ($5.00) additional fee for each additional set of number plates up to six sets, and two dollars ($2.00) additional fee for each additional set of number plates, as may be applied for by such dealer; provided, that each dealer be required to furnish the registrar of motor vehicles a statement showing the makes of motor vehicles handled by him, and the total number of each make sold by him during the preceding year, and that he not be issued a license unless he so conforms;

Dealers.

Fees.

"Dealers in motorcycles, fifteen dollars ($15.00);

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"Dealers in automobile accessories, except automobile dealers, ten dollars ($10.00);

Fees.

"Motor vehicles, weighing twenty-eight hundred and fifty (2850) pounds, or under, other than motor trucks, five dollars ($5.00);

"Motor vehicles, weighing over twenty-eight hundred and fifty (2850) pounds, other than motor trucks, ten dollars ($10.00);

"Electrically driven passenger vehicles, ten dollars ($10.00);

"All motorcycles, two dollars ($2.00);

"Tractors and/or trucks of one (1) ton capacity or under, five dollars ($5.00);

"Tractors and/or trucks over one (1) ton and up to and including one and one-half (1½) tons and up to and including two (2) tons capacity, ten dollars ($10.00);

"Tractors and/or trucks over one and one-half (1½) tons and up to and including two (2) tons capacity, twenty-two dollars and fifty cents ($22.50);

"Tractors and/or trucks over two (2) tons and less than three (3) tons capacity, thirty-seven dollars and fifty cents ($37.50);

"Tractors and/or trucks of three (3) tons and less than five (5) tons capacity, sixty dollars ($60.00);

"Tractors and/or trucks of five (5) tons capacity and over, two hundred dollars ($200.00); provided that tractors shall not be construed as meaning farm tractors used on farms or tractors used solely in logging operations but only such tractors as are part of a unit to haul over the highways;

"Busses shall be classed as motor trucks and licensed accordingly;

"Trailers and semi-trailers, over one thousand (1000) pounds and not over one (1) ton capacity, two dollars ($2.00);

Trailers, according to capacity.

"Trailers and semi-trailers, over one (1) ton and less than two (2) ton capacity, fifteen dollars ($15.00); over two (2) ton and less than three (3) ton capacity, twenty

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dollars ($20.00); over three (3) ton and less than four (4) ton capacity, twenty-five dollars ($25.00); over four (4) ton and less than five (5) ton capacity, thirty dollars ($30.00); over five (5) ton capacity, two hundred dollars ($200.00); provided that trailers owned by farmers and used in the transportation of his own livestock and his own farm produce with a five (5) ton capacity or more, shall be excluded from such provisions and the fee shall be five dollars ($5.00). And be it further provided that trailers used exclusively in the transportation of logs in the forest or in the transportation of oil and gas well machinery, road machinery and bridge material exclusively, new and second-hand, and trailers used exclusively for the transportation of road machinery and bridge materials, shall pay a fee of fifteen dollars ($15.00) annually, regardless of size or capacity.

Trailers owned by farmers.

Trailers used for transporting logs, etc.

"All rates to be twenty-five per cent (25%) higher for motor vehicles, trailers and semi-trailers, when not equipped with pneumatic tires;

Vehicles and trailers without pneumatic tires.

"Bicycles with motor attachments, one dollar ($1.00);

"Tractors, as specified in this section, shall mean any motor vehicle used for towing a trailer or semi-trailer.

"All license or registration fees collected by the county treasurer of the county in which any motor vehicle is registered shall be credited to the motor vehicle license fund of said county. The funds in said county motor vehicle fund shall be used as follows:

Disposition of fees.

"(a) Fifty per cent (50%) of the net license fees derived from the registration of motor vehicles, the owners of which reside within the boundaries of any incorporated city of the State of Montana, having a population of thirty-five thousand (35,000) or more, *or the owners of which reside within the boundaries of any incorporated city of the State of Montana which lies within one (1) mile of the city limits of an incorporated city of the State of Montana having a population of thirty-five thousand or more*, according to the federal census of 1930, shall be held by county treasurer and segregated from other county road funds and designated as 'city road fund', to be used in the city from which fees were derived for the construction of permanent streets within the incorporated limits of such city.

Part paid to city road fund.

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City road fund, for what uses.

"(b) The license fees held in the city road fund, as hereinbefore provided, shall be used by the city council of such city having the population of thirty-five thousand (35,000) or more, *or by the city council of such city which lies within one (1) mile of the city limits of an incorporated city of the State of Montana having a population of thirty-five thousand (35,000) or more,* according to the federal census of 1930, only for the construction of permanent highways and streets within the boundaries of such incorporated city. Provided, that all construction of public highways and streets, the cost of which is to be paid out of the fund derived from the license fees as herein provided, shall be under the supervision of the county surveyor of the county within whose boundaries such city is situated, subject to the control of the said city council and surveyor to designate the public highway or street upon which the work is to be done, and the type of pavement to be used, and provided further, that the cost of supervision of the county surveyor shall not exceed five per cent (5%) of the cost of said work.

Supervision of construction by county surveyor.

Use by county of net license fees transmitted by registrar of motor vehicles.

"(c) The net license fees derived from the registration of motor vehicles shall be by the registrar of motor vehicles transmitted to, and paid over to the county treasurer of the county from which the registration fee came, such fees, excepting apportionment to city road fund, to be used by said county for the construction, repair and maintenance of all public highways, except state and federal highways, within the boundaries of said county, including city streets forming component parts of arterial highways within the corporate cities of less population than thirty-five thousand (35,000), according to the federal census of 1930, within the boundaries of said county.

Fee for late registration.

"If any dealer, or motor vehicle, or trailer, or semi-trailer is originally registered six (6) months after the time of registration as set by law, the registration or license fee for the remainder of such year shall be one-half (½) of the regular fee above given.

Dealer having branch establishment.

"A dealer in motor vehicles or automobile accessories who shall maintain more than one (1) place of business or who shall maintain any branch establishment or establishments, must register and pay a registration or license fee for each such place of business or establishment.

"A registered dealer, who may sell or dispose of his entire business to any other person, may have his certificate of

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registration transferred to such purchaser upon filing with the registrar of motor vehicles a statement containing the name of the registered dealer, the number under which such dealer is registered, the name of the purchaser, and the location of the place of business so sold. Upon the filing of such statement, accompanied by a filing fee of one dollar ($1.00), the registrar of motor vehicles shall note upon the registration record of such dealer the change of ownership. But no certificate of registration can be transferred unless the entire business of the dealer holding such certificate of registration be sold and disposed of, and no such certificate of registration can be transferred to any person other than the purchaser of such business.

Dealer's certificate of registration, transfer of.

"The provisions of this act with respect to the payment of registration fees shall not apply to or be binding upon motor vehicles, trailers or semi-trailers or tractors owned or controlled by the United States of America or any state, county or city, but in all other respects the provisions of this act shall be applicable to and binding upon motor vehicles, tractors, trailers, and semi-trailers.

Act not applicable to vehicles owned by United States, state, county or city.

"All fees, other than license fees, mentioned and described in Sections 1758.3 and 1758.4, both as amended by Chapter 72 of the Laws of the twenty-fifth legislative assembly of the State of Montana for 1937, and all other acts amendatory to either of such sections, and in Section 1763.3 of the Revised Codes of Montana for 1935, shall hereafter be deposited in, and paid into, the motor vehicle recording fund of said registrar (sometimes called the motor vehicle administrative fund), out of which shall be paid all salaries, operating expenses, and all other expenses of the department of the registrar of motor vehicles.

Fees to be paid into motor vehicle recording fund of registrar.

"There shall be immediately transferred from the motor vehicle fund of the registrar of motor vehicles to the said motor vehicle recording fund all moneys now in said motor vehicle fund which were collected by the registrar of motor vehicles as fees other than license fees.

Disposition of moneys, other than license fees, to motor vehicle recording fund.

"Whenever, in the judgment of the state board of examiners, there shall be in said motor vehicle recording fund more moneys than are reasonably required or needed to pay all salaries, operating expenses, and all other expenses of the department of the registrar of motor vehicles, such board shall distribute such unneeded surplus or excess to the fifty-six (56) counties of the state in a pro rata manner

Disposition of surplus in such fund.

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based upon the total number of motor vehicles registered in each county."

Effective date.

Section 2. This act shall be in full force and effect immediately after its passage and approval.

Approved March 13, 1945.

CHAPTER 202

An Act Providing for the Installation of Mats or Other Floor Coverings of Wood, Fiber, Linoleum or Other Like Material in Front of All Stoves, Dish Sinks, and Other Installations in Restaurants, Cafes, Lunch Counters and Soda Fountains Where There Are Concrete or Cement Floors and Where the Employees Are Compelled to Stand for Considerable Periods On Said Concrete or Cement Floors; Providing for the Enforcement of the Provisions of This Act by the State Board of Health; Providing Penalties for Violation Thereof and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Mats or other covering on cement floors in certain places in restaurants and other designated places of business.

Section 1. Any person, partnership, corporation or association owning, operating, leasing, conducting or managing any restaurant, cafe, lunch counter, or soda fountain where prepared food is served to be consumed on the premises shall install therein mats or other floor coverings of wood, fiber, linoleum or other like material in front of all stoves, dish sinks and other installations where employees are compelled to stand for considerable periods of time on concrete or cement floors.

Board of health to enforce act.

Section 2. The state board of health of the State of Montana is hereby charged with the duty of enforcing the provisions of this act.

Penalty for violation.

Section 3. Any person, firm, partnership, corporation, association or manager violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and shall be liable to a fine not exceeding six hundred ($600.00) dollars or to imprisonment not exceeding seven (7) months or to both such fine and imprisonment.

Repealing clause.

Section 4. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 13, 1945.

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CHAPTER 203

An Act Requiring the Owners, Operators and Conductors of All Hotels, Restaurants, Cafes, Eating Houses, Eating Places, Lunch Counters and Lunch Bars, to Provide, Within the Physical Area Occupied by Such Places, and Keep Accessible, Suitable Retiring Rooms Where Employees May Have Ready Access to Toilets and Sanitary Facilities, and Cleansing Agents, Charging the State Board of Health With the Duty of Enforcing This Act, Providing Penalties for Violation Hereof and for Forfeiture of License, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Retiring room for employees of hotels, restaurants and other designated places of business.

Section 1. Any person, partnership, corporation or association, owning, operating or conducting any hotel, restaurant, cafe, eating house, eating place, lunch counter or lunch bar, where food and/or drink is handled and offered to the public for sale at retail, whether such food is prepared and cooked on the premises or prepared elsewhere and handled and offered to the public on the premises, shall at all times maintain and keep at all times in sanitary condition a retiring room within the premises, where all cooks, waiters, employees and handlers of food, or others connected with the handling thereof on the premises, may resort for purpose of hygiene and sanitation. Such retiring room shall be equipped with modern toilet and lavatory facilities, connected to running water, hot and cold, and connected to sewer or approved cesspool outlets, and shall be furnished with soap, clean towels and disinfectants and germicides for personal use by such food handlers and employees, provided however, that the requirements of this section shall not apply to any such establishment, person, partnership, corporation or association employing less than five (5) persons on a full time basis; provided, however, that this act shall not apply to restaurants, lunch counters or lunch rooms operated for the benefit of railroad stations, where there are retiring rooms as are defined and described in this act, provided and maintained in such railroad stations within a distance of not more than seventy-five (75) feet from such restaurants, lunch counters or lunch rooms.

Exception, when there are less than 5 employees.

Exception as to railroad stations.

Section 2. The state board of health of the State of Montana is hereby charged with the duty of enforcing the pro-

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Act to be enforced by board of health.

visions of this act and compelling adherence to its provisions.

Penalty for violation.

Section 3. Any person, partnership, corporation, or association violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be liable to fine not exceeding six hundred ($600.00) dollars or to imprisonment not exceeding seven (7) months, or both such fine and imprisonment.

Annulment of license.

Section 4. Upon said conviction, any license issued by the State of Montana under and by authority of which any said person, partnership, corporation or association operates or conducts any such eating place or establishment, shall be automatically annulled, and no license shall thereafter be issued to said former licensee until the conditions of this act are satisfied.

Repealing clause.

Section 5. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 13, 1945.

CHAPTER 204

Title of act.

An Act Providing for the Construction and Furnishing of a Building As An Adjunct to the State Capitol Building to Be Known As the "Montana Veterans and Pioneers Memorial Building", As a Memorial to the War Veterans and Pioneers of the State, and to House the Property and Staff of the Historical Society of Montana, the Society of Montana Pioneers, Sons and Daughters of Montana Pioneers, and of the War Veterans Organizations Set Forth in Chapter 131, Laws of the Twenty-sixth Legislative Assembly of the State of Montana 1939; Authorizing the Issuance and Sale of Bonds By the State for Such Purpose; Designating the Funds from Which Said Bonds Shall Be Paid; Providing for An Interest and Sinking Fund; Enumerating the Powers and Duties of the State Board of Examiners and of the Veterans' Memorial Fund Commission in Carrying Out the Provisions of This Act; Pledging and Appropriating All Balances Now In or That May Accrue to the Capitol Building Land Grant and the Veterans Memorial Fund to the Payment of Construction Costs and Retirement of Bonds Authorized by This Act; Authorizing the State to Receive Gifts for the

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Erection or Maintenance of Said Memorial Building and Providing That If Any Section or Part of This Act Be Void or Ineffective It Shall Not Be Deemed to Affect Any Other Section or Part Hereof and Repealing Chapter 79 of the Laws of the Twenty-seventh Legislative Assembly and All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Construction of Montana veterans and pioneers building authorized.

Section 1. The state board of examiners of Montana is hereby authorized and directed to cause to be constructed and furnished a building as an adjunct of the state capitol building to be known as the "Montana veterans and pioneers memorial building". Said building shall be erected upon a site on the present state capitol building grounds or upon lands owned or hereafter acquired by the state as a part of said site.

Site.

Purpose and use of building.

Section 2. Said building shall constitute a perpetual memorial to the war veterans and the pioneers of Montana, and when completed, said building shall be devoted to the use of the war veterans organizations set forth in chapter 131, laws of the twenty-sixth legislative assembly of the State of Montana 1939, the historical society of Montana, the society of Montana pioneers, and the sons and daughters of Montana pioneers, and for the housing of books, records, documents, and other property of such veterans and organizations; and there shall be provided in said building appropriate office quarters for the state headquarters and officers and employees of such veterans and organizations, and for the librarian and other employees of the historical society of Montana.

Duties of board of examiners and veterans memorial fund commission.

Section 3. Upon the sale of the bonds, or other acquisition of funds as authorized by this act, the state board of examiners is hereby empowered and directed to proceed with the erection of a building of suitable construction and design for the purposes herein specified. The veterans memorial fund commission shall make studies concerning plans and specifications for said building, and landscaping the grounds, and similar features, and shall submit them, when completed, to the board of examiners who shall thereupon employ architects, engineers and other personnel as may be necessary to prepare plans and specifications therefor, and such architects and engineers and other personnel

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so employed shall be paid therefor from the funds herein provided for. Such plans and specifications shall upon their completion be submitted to said commission for its approval.

Bids and contract.

Section 4. The state board of examiners shall advertise for bids for the construction of said building in the manner provided by law and shall let the contract for said building. Said board shall require both the contractor and architect to give bonds to the State of Montana in such amount as the board may determine, conditioned for the faithful performance of their respective duties and contract. The total cost of erecting and furnishing said building shall not exceed the sum of four hundred thousand ($400,000.00) dollars.

Bonds to be given by architect and contractors.

Memorial capitol building bonds of state, issue and sale.

Section 5. For the purpose of providing funds for the erection and furnishing of the memorial building authorized by this act, the state board of examiners is hereby authorized and empowered to issue and sell veterans and pioneers memorial capitol building bonds of the State of Montana in an amount not exceeding four hundred thousand ($400,000.00) dollars. Said bonds shall bear interest at a rate not exceeding four (4%) per cent per annum, payable semi-annually. The bonds shall be either amortization or serial bonds, shall bear such date as the state board of examiners shall prescribe and shall be payable over such period of years, not exceeding ten (10), as said board may specify.

Terms and conditions of bonds.

All bonds shall be optional and redeemable three (3) years after the date of issue and on any interest payment date thereafter, at the option of the state board of examiners. Said bonds shall be in such denomination and form and shall contain such recitals as the state board of examiners may determine, shall be signed by the governor, the attorney general, the secretary of state and members of said board and shall be paid at the office of the state treasurer of the State of Montana. The coupons attached to said bonds may bear the facsimile signatures of members of said board.

Minimum sale price.

Section 6. Said bonds shall be sold by the state board of examiners at such time and in such manner as the board shall deem best to carry out the provisions of this act; provided that none of such bonds shall be sold for less than par, plus accrued interest to the date of delivery of the bonds.

Registration.

Each of said bonds shall be registered before delivery with the state treasurer of the State of Montana, who shall keep

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accurate accounts of payments of interest and principal upon said bonds.

Funds from which bonds are to be paid.

Section 7. The principal and interest of the bonds authorized by this act shall be payable out of the following funds and from them only. First, all moneys now in the veterans memorial fund, created by Section 4559, Revised Codes of Montana 1935 from the proceeds of boxing and sparring matches are hereby dedicated and appropriated to the payment of the principal and interest of said bonds, provided, however, that nothing herein contained shall be deemed to prevent the payment by the state athletic commission and the state treasurer out of said funds, of the expenses of the state athletic commission and the salary of its secretary, as provided in section 4559, and further provided that a portion of said bonds, equal in amount to the total cost of furnishing said memorial building, shall be paid and retired exclusively out of the moneys received from the veterans memorial fund hereby appropriated for the payment of said bonds. Second, all the income received from the capitol building land grant shall be and the same is hereby perpetually dedicated and appropriated for the payment of the principal and interest of the bonds provided for by this act. Any and all balances or sums now in said capitol building land grant fund or that may accrue to and become a part of said fund prior to the time of the sale of the bonds provided for by this act shall likewise be and the same are hereby pledged and appropriated for the payment of principal and interest of the bonds authorized by this act and to cover and pay the cost of construction of said building to the extent that said balances or accruals to said fund may be sufficient to pay the same; provided further that said bonds shall be issued and sold by said board of examiners as herein provided, only for the total sum or amount necessary to be raised in excess of such total of all balances or sums now in or that may accrue to said capitol building land grant and said veterans' memorial funds in order to make available for such construction and furnishing the total amount of four hundred thousand ($400,000.00) dollars as provided in this act.

Veterans memorial fund.

Income from capitol building land grant.

Amount of bonds to be sold, limitation.

Veterans and pioneers memorial capitol building and interest fund created.

Section 8. To provide for the payment of the interest and principal of the bonds authorized by this act, there is hereby created a special fund to be known as the veterans and pioneer memorial capitol building interest and sinking fund, into which shall be paid all sums of money from the

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funds hereinbefore dedicated and appropriated to the payment of the principal and interest of said bonds, and the construction and furnishing of said building.

State may receive gifts for building.

Section 9. The State of Montana is hereby authorized to receive gifts, legacies and donations of money or other property for the erection or maintenance of the memorial building herein provided for and all such gifts, legacies and donations are hereby dedicated to such purpose.

Budget act.

Section 10. The appropriation herein provided for shall be deemed and held valid, notwithstanding the provisions of the budget act.

Consultation with veterans memorial fund commission, historical society, and other organizations.

Section 11. The state board of examiners shall consult and advise with the veterans memorial fund commission, the historical society of Montana, the society of Montana pioneers and the sons and daughters of Montana pioneers, to the end that the building so constructed shall be in keeping with the purposes of this act, to construct a perpetual memorial to the war veterans and pioneers of Montana.

Chap. 79, laws of 1941, repealed.

Section 12. Chapter 79 of the laws of the twenty-seventh legislative assembly and all acts and parts of acts in conflict herewith are hereby repealed.

Severability of act.

Section 13. Each section of this act and every part of each section is hereby declared to be independent of each other, and the holding of any section or part hereof to be void or ineffective for any cause shall not be deemed to affect any other section or part hereof.

Approved March 13, 1945.

CHAPTER 205

An Act Providing for the Prospecting for and Mining of Non-metallic Minerals, Other Than Coal, Oil and Gas, in Lands Owned by the State or Reserved in Lands Sold or Leased by the State in Cases Where the State Board of Land Commissioners has heretofore Issued Prospecting Permits for Such Minerals in the Belief That the Same Were Authorized by Chapter 148 of the Session Laws of 1937 or Acts Amendatory Thereof or Supplemental Thereto, or Any Other Law of the State of Montana; Empowering the State Board of Land Commissioners to Issue Leases for Such Purposes.

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Be it enacted by the Legislative Assembly of the State of Montana:

Leases by state board of land commissioners, to holders of prospecting permits for non-metallic minerals.

Section 1. Whenever the state board of land commissioners has heretofore issued a prospecting permit for the purpose of prospecting for any of the non-metallic minerals such as phosphate, sodium, potash, sulphur, oil shale or other non-metallic mineral products not including coal, oil or gas, in the belief, on the part of said board, that the same was authorized by Chapter 148 of the Session Laws of 1937, or by any acts amendatory thereof or supplemental thereto, or any other law of the State of Montana, the holder or holders of such permit, providing the same is, by the terms thereof, in good standing at the time of the enactment of this act, shall be entitled to a lease under the terms and provisions of Chapter 148 of the Session Laws of 1937 and all acts amendatory thereof or supplemental thereto as fully as if said acts permitted the issuance of leases upon said non-metallic mineral deposits aforesaid, such lease to embrace the lands described in any such permit, provided, however, that said lease may be issued to the holder or holders of any such permit at a minimum royalty rate of two percent (2%) of the gross value of the output of such minerals at the mine.

Minimum royalty.

Lease not assignable.

Section 2. No lease issued hereunder may be assigned without the consent of said board first had and obtained.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 13, 1945.

CHAPTER 206

An Act Authorizing the Public Service Commission to Employ a Suitable Laboratory to Test Petroleum Products and Providing for An Appropriation Therefor and Repealing Section 3913.11 Revised Codes of Montana 1935, Relating to Designation of State Chemist to Make Analyses and Tests, Section 3913.12 Revised Codes of Montana 1935, Relating to Assistants May Make Analyses and Appointment of Assistants, and Section 3913.13 Revised Codes of Montana 1935, Relating to Chemist and Assistants to Give Evidence, Fees As Witnesses.

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Be it enacted by the Legislative Assembly of the State of Montana:

Laboratory for testing petroleum products, public service commission may employ.

Section 1. That the public service commission is hereby authorized to employ a laboratory having sufficient facilities to make tests of petroleum products as required by Section 3913.4 and 3913.10 Revised Codes of Montana 1935, and to pay reasonable compensation for the analyses and tests made by such laboratory.

Appropriation.

Section 2. There is hereby appropriated out of any money in the state treasury not otherwise appropriated the sum of twelve hundred ($1200.00) dollars for the year beginning July 1, 1945 and ending June 30, 1946 and twelve hundred ($1200.00) dollars for the year beginning July 1, 1946 and ending June 30, 1947, for the purpose of making payment to such laboratory for such analyses and tests.

Secs. 3913.11, 3913.12 and 3913.13, R. C. 1935, repealed.

Section 3. That Section 3913.11 Revised Codes of Montana 1935, relating to designation of state chemist to make analyses and tests, Section 3913.12 Revised Codes of Montana 1935, relating to assistants may make analyses and appointment of assistants, and Section 3913.13 Revised Codes of Montana 1935, relating to chemist and assistants to give evidence, fees as witnesses are hereby repealed.

Effective date.

Section 4. This act shall be in full force and effect from and after its approval.

Approved March 15, 1945.

CHAPTER 207

An Act Providing for the Leasing and Sub-leasing of Agricultural and Grazing Lands and Town and City Lots Owned by the State, and Providing for the Appraisal of Such Lands As a Basis for Leasing, and to Amend Sections 1805.20, 1805.25 and 1805.28 of the Revised Codes of Montana of 1935, and to Amend Section 1805.21 of Said Codes As Amended by Section 1 of Chapter 65 of the Laws of Montana of 1939, As Amended by Section 1 of Chapter 20 of the Laws of Montana of 1941, and to Amend Section 1805.32 of Said Codes, As Amended by Section 1 of Chapter 14 of the Laws of Montana of 1937, *to Increase Rentals Under Existing Leases of State Grazing Lands*, and for the Repeal of Section 1805.17 of Said Codes.

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Be it enacted by the Legislative Assembly of the State of Montana:

Policy of state as to appraisal and leasing of state lands declared.

Section 1. It is hereby declared to be the policy of the state, that in the interest of accomplishing a sustained income for the school and other trust funds to be derived from land grant and other state lands, agricultural and grazing lands and town and city lots shall be appraised from time to time as to their rental value, by competent appraisers, or appraiser, and the fair rental value of such lands so determined from time to time; and that agricultural lands be hereafter leased, or lease term renewed or extended, only upon a crop share basis, and that no lease be made or renewed, or the lease term extended, on any other basis, except in unusual cases, and then only upon approval by the state board of land commissioners set forth in their minutes of proceedings specifying the unusual conditions to justify the leases; and that grazing lands be hereafter leased, or lease term renewed or extended, only upon the basis of animal unit carrying capacity of the land for *twelve* month grazing period per calendar year, as determined by the appraisal, and at a rate of money for an animal-unit-month to be determined by the legislature from time to time, and in the absence of such determination at the rate of twenty cents (20c) per animal-unit-month.

Sec. 1805.20, R. C. 1935, amended.

Section 2. Section 1805.20 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Lease of agricultural lands—rental basis.

"1805.20. Under the general direction and control of the *state* board *of land commissioners, the commissioner* shall lease all agricultural and grazing lands and all town and city lots open to leasing upon proper application, *provided that, as to agricultural lands, all leases now outstanding (for the next and succeeding years hereafter) and all leases hereafter made, and all renewals of leases, shall be continued or made upon a crop share rental basis of not less than one-fifth (1/5) of the annual crops to the state, or the usual landlord's share prevailing in the district, whichever is greater. In unusual cases the board may authorize a lease upon other basis than crop share, but in all such unusual cases the board shall set forth in its minutes of approval the unusual conditions of the case and the rental to be charged, and by unusual conditions is meant a proposed use of the land for other than the annual production of agricultural crops justifying, in the opinion of the board, a*

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greater money rental of the land than the value of the usual landlord share of annual agricultural crops in the area in which the land is situated, and provided further that, from and after February 28, 1948, the rental rate for all state grazing lands leased and to be leased shall be based upon the appraised animal-unit-month carrying capacity of the land multiplied by the rate per animal-unit-month as fixed in this act, and provided further that, as to town and city lots owned by the state, the fair rental value thereof shall be determined from time to time under the direction of the commissioner and with the approval of the state board of land commissioners and record made thereof, and such town or city property may be leased at its current appraised rental value for terms of not to exceed five (5) years. All leases of agricultural or grazing lands, or town or city lots shall be *upon condition* that the *state* board *of land commissioners* may in its discretion, offer said land for sale at any regular public *sale* of state lands held in the county where the land is situated, upon the same terms, and in the same manner as land not under lease."

Rental rate for grazing lands after Feb. 28, 1948.

Lease term limited to maximum of 5 years.

Right of sale to be reserved.

Annual rental rate for grazing lands.

Section 3. The annual rental to be reserved to the state in leases of grazing lands shall be at the rate of twenty cents (20c) per animal-unit-month of carrying capacity of the land as determined by *the commissioner* of the department of state lands and investments with the approval of the state board of land commissioners, for a grazing period of *twelve (12)* months for a calendar year. By "animal unit" is meant one cow, one horse, or five sheep six months old or over. By "animal-*unit*-month" is meant an animal unit grazed, or to be grazed, on a tract of land for thirty (30) days.

Commissioner to appraise grazing lands.

Section 4. (a) It shall be the duty of *the commissioner*, as rapidly as practicable, to cause the grazing land owned by the state to be appraised as to its animal-unit-month carrying capacity, and to make and preserve record thereof in his office, and to from time to time cause said lands to be re-examined as to their animal-unit-month carrying capacity so as to keep the records thereof in his office reasonably accurate.

Factors to be considered in appraisal.

(b) In appraising such grazing lands the following factors shall be taken into consideration:

1. Inventory of the forage resources:—kind, amount and location of vegetation.

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2. Accessibility and usability of this forage resource as influenced by topography, availability of stock water and season of usability.

3. Condition of soils—the erosion situation.

4. Other and related resources—such as timber, game animals, need for watershed protection.

5. Record of needed improvements and facilities—fuel and stock water, re-vegetation, rodent control, trails, fences, and the like.

6. Pertinent facts and figures submitted by stockmen living in the area and directors of state grazing districts including the land or in its vicinity.

7. Carrying capacity set for similar land in a state grazing district in which the land is situated.

Sec. 1805.21, R. C. 1935, as amended, further amended.

Section 5. Section 1805.21 of the Revised Codes of Montana of 1935, as amended by Section 1 of Chapter 65 of the Laws of Montana of 1939, as amended by Section 1 of Chapter 20 of the Laws of Montana of 1941, be, and the same is hereby amended to read as follows:

Renewal of leases—preference right of lessee.

"1805.21. A lessee *of state land classed as agricultural, grazing, town lot or city lot, or in any of those classes,* who has paid all rentals due from him to the state and *who has* not violated the terms of his lease shall be entitled to have his lease renewed for an additional period of not exceeding ten (10) years *in the case of agricultural or grazing land, and not to exceed five (5) years in the case of town or city lots, at any time within thirty (30) days prior to its expiration, or within thirty (30) days after notice of termination date of the lease is mailed to the lessee at his address shown on the records of the lease in the department, whichever date is later, and at the rental rate applicable to the particular land established in the manner provided by law for the renewal period, and subject to any other conditions, at the time of the renewal, as may by law be imposed as terms of such leases, and except as in this section provided, applications for lease of lands in this section referred to shall be given preference in the order of their receipt at the office of the commissioner in Helena; provided, the state board of land commissioners shall have the power to withdraw any agricultural or grazing state land from further leasing for such period as the board may determine to be in the best in-*

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terest of the trust fund provided all bids for leases and applications for renewals of leases of state agricultural lands or state grazing lands under section 6 of this act shall be in writing and sealed and shall be submitted to the state board of land commissioners at the office of the commissioner, and a lessee who has paid all rentals due from him to the state and not violated the terms of his lease, shall be entitled to have his lease renewed under section 6 of this act at any time within thirty (30) days prior to its expiration if no other application or applications for lease of the land have been received thirty (30) days prior to the expiration of his lease, or in case such other application or applications have been received the holder of the lease, if he has paid all rentals due to the state and not violated the terms of his lease, shall have the preference right to lease the land covered by his former lease to the extent that he may take the lease at the highest bid made by any other applicant."

Bids for leases and applications for renewals of leases.

Sec. 1805.25, R. C. 1935, amended.

Section 6. Section 1805.25 of the Revised Codes of Montana of 1935 is hereby amended to read as follows:

Rental rate for grazing lands to be established.

"1805.25. *Prior to January 1, 1947, the state board of land commissioners shall establish the rental rate for all state grazing lands upon the animal-unit-month basis as provided in this act, and until February 28, 1948, leases and renewals of leases of state grazing lands in which the lease term is to begin prior to March 1, 1948, or the current term of the lease to be renewed expires prior to said last named date, may be made upon the following conditions as to rate of rental:*

Classification of grazing lands for determining rental rate.

For the purpose of determining the rental rate of grazing lands they shall be classified as follows:

Class 1. Extra good grazing land, *forty-two dollars ($42.00) to sixty dollars ($60.00).*

Class 2. Good grazing land, well sodded with grass, *thirty-six dollars ($36.00).*

Class 3. Fair grazing land, with medium grass, *thirty dollars ($30.00).*

Class 4. Poor grazing land, thinly grassed, *twenty-four dollars ($24.00).*

Class 5. Any other grazing land, such amount as may be fixed by said board.

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Valuations for purposes of leasing shall be made from plats, records and information on file in the office of the commissioner of state lands and investments, by competent persons, qualified for this work. *Beginning February 28, 1946, and except in such leases as the rental rate has been fixed by competitive bidding, the annual rental under leases of state grazing lands outstanding July 1, 1945, shall be increased by twenty percent (20%) thereof.*"

Valuations for leasing, how made.

Increase of rental rate effective July 1, 1945.

Section 7. Lease rentals for agricultural or grazing state land, where the lease term begins after February 28 in the initial year of the lease, shall be for the whole of the yearly rate for the fractional part of the initial year if the lease term begins prior to July 1st in such fractional part of year, and for one-half (½) the yearly rate for such fractional part of the year if the lease term begins after June 30th in the initial year and prior to the succeeding February 28th.

Lease rentals for grazing lands for less than one year.

Section 8. No credit or reduction or refund in rental shall be allowed any lessee of agricultural or grazing state land on account of summer fallow.

Summer fallow.

Section 9. Section 1805.28 of the Revised Codes of Montana of 1935, be, and the same is hereby amended to read as follows:

Sec. 1805.28, R. C. 1935, amended.

"1805.28. Whenever any land is leased for grazing purposes, and the lessee desires to cultivate any part of the land, he shall before doing any such cultivation, make application to the commissioner stating how much land he desires to cultivate, showing the location in the section of such land, send his lease to the commissioner to have the necessary changes made therein, *and shall agree that for the remainder of the term of the lease the annual rental shall be at the rate of the full rate for the whole of the leased land for grazing purposes, plus the crop share rental on the basis in this act provided for, the portion of the land designated in the application to be cultivated,* whether the lessee continues to cultivate such part or not, it being the intention of this provision to protect the interests of the state and to induce lessees to have the leases originally issued for the usage intended to be made of the land. In case any person shall cultivate lands leased for grazing purposes, without having first secured the right to do so in the manner herein provided, *the lease shall be subject to cancellation or the lessee* shall be liable for twice the regular agricultural rental on the land so cultivated in addition to the grazing rental

Cultivation of lands leased for grazing purposes.

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thereof *as may be decided by the board.* The provisions of this section shall be incorporated in every lease."

Leases of agricultural lands, conditions of.

Section 10. It shall be a condition of all leases of agricultural or grazing state lands, (a) that, in the case of agricultural lands, the lessee shall observe the ordinary rules for good management of agricultural lands and shall so handle the leased land that the productivity is maintained, that neither wind nor soil erosion occurs, that noxious weeds are kept under control and that crops are so planted that the greatest yields of good quality are obtained, and (b) that,

Same, as to grazing land leases.

in the case of grazing lands, the lessee shall observe the ordinary rules for good range management and shall so manipulate the numbers, class, distribution and season of the range and the handling, feeding, breeding and marketing of grazing livestock that the maximum of livestock and livestock products be produced, consistent with the conservation of the land resources and the perpetuation of its productivity, and shall not subject the state land in any season to grazing in excess of the animal-unit carrying capacity upon which the rental is based.

Cancellation of lease, cause for.

For the gross violation of any of said rules, the lease involved may be cancelled by the state board of land commissioners upon recommendation of the *commissioner.*

Sec. 1805.17, R. C. 1935, repealed.

Section 11. Section 1805.17 of the Revised Codes of Montana of 1935, be, and the same is hereby repealed.

Sec. 1805.32, R. C. 1935, as amended, further amended.

Section 12. That Section 1805.32 of the Revised Codes of Montana of 1935, as amended by Section 1 of Chapter 14 of the Laws of Montana of 1937, be, and the same is hereby amended to read as follows:

Procedure for assignment of leases on state lands.

"1805.32 Leases to state lands may be assigned on blanks provided for that purpose by the *state board of land commissioners,* but no such assignment shall be binding on the state unless the assignment is filed with the commissioner, approved by him and payment made of the assignment

Preference.

fee of one dollar ($1.00). Preference shall always be given to the applicant who wants the land for his own individual use so that the full advantage coming from the leasing and use of such lands may reach those who actually till the soil, and so that they shall not be compelled to pay a higher

Terms and conditions.

rental than that due the state. If a lessee sub-leases state lands on terms less advantageous to the sub-lessee than the terms given by the state, his lease shall be subject to can-

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cellation by the state board of land commissioners after hearing, duly held on the facts involved. In any case where state land is sub-leased by any lessee of state lands, such sub-lease shall be illegal unless a copy of the sub-lease has been filed with the state land office and approved by the commissioner."

Filing and approval.

Section 13. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Section 14. This act shall become effective July 1, 1945, after its passage and approval.

Effective date.

Approved March 15, 1945.

CHAPTER 208

An Act Providing That Residents of the State of Montana, On Furlough or Leave in the Military Service of the United States in Time of War May Hunt and Fish, All As Authorized by Law, and Without Obtaining a License, Providing Such Resident Shall Have First Secured a Permit to So Hunt and Fish, the Form of Which Shall Be Prescribed by the Montana Fish and Game Commission and Which Shall Be Issued by the Proper Authorities Upon the Proper Showing Being Made By the Applicant of His or Her Service Record, Furlough or Leave Papers.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. It shall be lawful for residents of the State of Montana on furlough or leave from the armed service of the United States while the United States is engaged in war to pursue, hunt, shoot, kill, capture, take and possess game birds and game animals, and to fish with hook and line or rod in hand, all as authorized by the laws of the State of Montana, and without obtaining a license therefor, providing such resident shall have first secured a permit to so hunt and fish, the form of which shall be prescribed by the Montana fish and game commission and which shall be issued by the proper authorities upon the proper showing being made by the applicant of his or her service record, furlough or leave papers.

Privilege of hunting and fishing without license granted to residents of state in the armed services.

Permit required.

Section 2. This act shall be in full force and effect from and after its passage and approval.

Effective date.

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Repealing clause.

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 15, 1945.

CHAPTER 209

An Act to Amend Section 2300 of the Revised Codes of Montana of 1935, Relating to Corporation License Tax Returns, the Assessment of Tax Thereon, Tax Refunds, and Action in Case of False Return.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 2300, R. C. 1935, amended.

Section 1. That Section 2300 of the Revised Codes of Montana of 1935 be and the same is hereby amended to read as follows:

Assessment of tax.

"Section 2300. **Assessment of Tax—Payment—Lien of Tax.** All assessments shall be made by the state board of equalization, and the several corporations shall be notified of the amounts for which they are respectively liable, on or before the first day of June of each successive year.

Payment.

Payment of the tax assessed shall be made by corporations reporting on a calendar year basis, on or before the fifteenth day of June following the assessment of the tax. Payment of said tax shall be made by corporations operating on a fiscal year basis on or before the fifteenth day of the sixth month following the close of said corporation's fiscal year. In cases of refusal or neglect to make such return, and in cases of erroneous, false, or fraudulent returns, the state board of equalization shall, upon the discovery thereof at any time within *five (5)* years after said return is due,

Returns made by state board of equalization, when.

make a return upon information obtained as provided for in this act, and the assessment made by the state board of equalization shall be paid by such corporation immediately upon notification of the amount of such assessment. If the license fee assessed thereunder shall not be paid *on or before the time specified in this act,*

Penalty and interest.

there shall be added the sum of ten (10%) per cent on the amount of the license fee unpaid, and interest at the rate of one (1%) per cent per month upon said license fee from the time the same becomes due, and the state shall have a lien for the payment of such

Lien for tax.

license fee, penalty, and interest, which said lien shall attach to any and all property owned or possessed within the state by such corporation, which lien may be enforced in

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the same manner as liens are enforced at law. *If the amount of the tax assessed is less than the amount theretofore paid, the corporation is entitled to a refund of the excess. The state board of equalization must return the overpayment to the taxpayer from any money in the suspense account as shown by the records in the office of the state treasurer.*"

Refund of overpayment.

Section 2. This act shall take effect upon its passage and approval.

Effective date.

Approved March 16, 1945.

CHAPTER 210

An Act to Amend Section 3228.3 Revised Codes of Montana, 1935, As Amended by Chapter 222 Laws of the Twenty-sixth Legislative Assembly of Montana, 1939, Relating to Requirements for Practicing or Teaching Cosmetology by Changing the Age to Not Less Than Sixteen Years, and Eliminating the Requirement of Graduate of High School: Repealing All Acts in Conflict and Providing An Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 3228.3 Revised Codes of Montana, 1935, as amended by Chapter 222, laws of the twenty-sixth legislative assembly of Montana, 1939, be, and the same is hereby amended to read as follows:

Sec. 3228.3, R. C. 1935, as amended, further amended.

"Section 3228.3 **Requirements for Practicing or Teaching Cosmetology or Operating a School of Cosmetology.** Before anyone may practice or teach cosmetology, or any person, firm, or co-partnership, or corporation may operate a school of cosmetology, such person, firm, or co-partnership or corporation must obtain a license or certificate of registration from the state board as hereinafter provided. To be eligible to take the examination to practice cosmetology, the applicant must be not less than eighteen (18) years of age and a graduate of the eighth grade school, and must be of good moral character. Such applicant must have completed a continuous course of study of at least two thousand (2,000) hours in an accredited beauty school, which course of study has been distributed over a period of not less than

License required.

Eligibility of applicants for examination.

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ten (10) months or more than twelve (12) months, and has received a diploma from said beauty school. Such person so qualified must file with the secretary of the state board, a written application to take such examination accompanied by a health certificate issued by a registered, licensed physician on a form supplied by the state board, and shall deposit with the secretary of the said board, the required examination fee and pass an examination as to his or her fitness to practice cosmetology. Before an applicant may take an examination to obtain a license as a teacher of cosmetology, he or she must have a diploma from an accredited beauty school, and must also have a license to practice cosmetology, and must show that he or she has been actively engaged as a beauty operator for three (3) continuous years prior to taking said teachers' examination. Said applicant must qualify by filing an application as prescribed by the board and by taking and passing such examination as prescribed and given by the state board before a license shall issue. Such license must be renewed annually as herein provided.

Applicants for license as teachers.

Apprentice license.

"Provided, however, that the state board may issue apprentice licenses to applicants who are not less than sixteen years of age and of good moral character. Such applicants must register with the secretary of the state board before commencing the apprenticeship upon such form as the state board shall prescribe for such apprenticeship license. Such apprentice, after two (2) continuous years under a licensed cosmetologist, must take the state board examination for an operator's license. Provided, however, the board shall not issue more than one (1) apprenticeship license to a licensed beauty shop, excepting such shops as have five (5) or more licensed operators, in which case the number of apprentices shall be limited to one (1) apprentice for every five (5) operators or a fraction thereof.

Temporary licenses to graduates as operators.

"Provided, further, the board may grant to graduates of accredited schools of this state upon the payment of a fee of two dollars ($2.00) a temporary license authorizing such graduates to practice as an operator under the supervision of a licensed cosmetologist, in the practice of hairdressing and beauty culture, for a period of not to exceed ninety (90) days, or until the next examination is held by the board. No such temporary license shall be issued except upon the presentation by the applicant of a certificate of

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graduation from a registered school of the State of Montana, and such temporary licenses shall not be renewable.

Certificate of registration of schools.

"No person, firm, or co-partnership, or corporation shall operate a school for the purpose of teaching cosmetology for compensation unless a certificate of registration has been first obtained from the state board. Application for such certificate shall be filed with such board on such form as the board shall prescribe.

Requirements for certification.

"No school for teaching cosmetology shall be granted a certificate of registration unless it complies, or can comply, with the following requirements:

To employ licensed teachers.

"(1) Have in its employ a licensed teacher who shall be, at all times, in the immediate supervision of the work of said school, or such other teachers as the state board may determine is necessary for the proper conduct of said school. Provided, however, that there shall not be more than twenty-five (25) students to each such teacher.

Equipment.

"(2) It shall possess such apparatus and equipment as the state board may determine is necessary for the ready and full teaching of all subjects or practices of cosmetology.

School term.

"(3) It shall maintain a school term of not less than two thousand (2,000) hours extending over a period of ten (10) consecutive months, and shall prescribe a course of practical training and technical instructions equal to the requirements for state board examinations, which course of training and technical instruction shall be prescribed by the state board.

Attendance record.

"(4) It shall keep a daily record of the attendance of each student, establish grades, and hold examinations before issuing diplomas.

Sanitation.

"(5) No owner, or person in charge of a school of cosmetology shall permit any person to sleep in or use for residential purposes, or any other purpose which would tend to make the room unsanitary, any room used, wholly or in part for a school of cosmetology.

Revocation of certificates.

"(6) Certificates of registration may be refused, revoked, or suspended, as provided in section 3228.11, hereof.

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Power of board to prescribe rules and regulations.

"(7) The state board shall have the power to prescribe such further rules and regulations as they deem necessary for the proper conduct of schools of cosmetology.

Licensee suffering from communicable disease.

"If a licensee shall contract a communicable disease, endangering the public health, the board shall, upon proof of same, cancel or suspend his or her license until such time as said licensee can secure a physician's certificate showing that such licensee is free from communicable disease."

Repealing clause.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 16, 1945.

CHAPTER 211

An Act to Amend Section 3228.1 of the Revised Codes of Montana, 1935, As Amended by Chapter 222 of the Session Laws of the Twenty-sixth Legislative Assembly, 1939, and As Amended by Chapter 80 of the Session Laws of the Twenty-seventh Legislative Assembly, 1941, Relating to the Regulation of the Practice of Cosmetology and Hair Dressing and Relating to the License Required to Practice or Teach Cosmetology or the Management or Conduct At a Beauty Shop or School and Providing for the Certification of a Physically Handicapped Person Trained for Cosmetology by the State Bureau of Vocational Rehabilitation or by the Rehabilitation Division of the United States Veterans Administration.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 3228.1, R. C. 1935, as amended, further amended.

Section 1. That Section 3228.1 of the Revised Codes of Montana, 1935, as amended by Chapter 222 of the Session Laws of the twenty-sixth legislative assembly, 1939, and amended by Chapter 80 of the Session Laws of the twenty-seventh legislative assembly, 1941, be and the same is hereby amended to read as follows:

"Section 3228.1. **License Required to Practice or Teach**

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Cosmetology or Operate a Beauty Shop or School, and Provisions for Registration of Schools of Cosmetology *and Providing for Certification of Trained Physically Handicapped Persons.* No person shall practice or teach cosmetology without a license and no place shall be used or maintained for the teaching of cosmetology, for compensation, except under a certificate of registration, and no person shall own, operate, manage or conduct a beauty shop or school and teach the art therein, or practice therein, without a manager-operator license, and such manager-operator license shall not be issued unless the applicant therefor shall have been actively engaged in, or practicing beauty culture in this state for a period of one (1) year preceding such application, in addition to possessing the other requirements provided for a practitioner or teacher of cosmetology in this act. Said licenses and said certificate of registration shall be issued only in conformity with this act, *provided that this section, insofar as it refers to the right of individuals to operate a beauty shop shall not be applicable to physically handicapped persons trained for cosmetology by the state bureau of vocational rehabilitation or by the rehabilitation division of the United States veterans administration. Upon proper certification from the state director of the state bureau of vocational rehabilitation that a beneficiary of that department has successfully completed the required apprenticeship or training in a shop or beauty school, or a similar certification from the chief of the rehabilitation and education division of the Montana regional office of the United States veterans administration that a beneficiary of that department has successfully completed the required apprenticeship or training in a shop or beauty school, and has passed the examination given by the Montana state examining board of beauty culturists for an operator's license, the secretary of the state board of cosmetology shall issue such person the necessary certificate or license to practice the profession in Montana, including the right to open and operate a beauty shop.*"

Practice and teaching of cosmetology —license required.

Exception as to trainees of state bureau of vocational rehabilitation or rehabilitation division of U. S. Veterans administration.

Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Repealing clause.

Approved March 16, 1945.

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CHAPTER 212

An Act to Provide for the Creation, Establishment and Operation and Also the Adjustment With Other Existing Systems, of a Comprehensive Retirement System for Employees of the State of Montana and All Employees of Such Cities and Counties (Except City Policemen, City Firemen and Montana State Highway Patrol), All Within the State, As May Elect to Include Their Employees Pursuant to Contract With the Board of Administration of Such System, to Be Known As the Public Employees' Retirement System and Making An Appropriation Therefor, and Providing That This Act Shall Not Be Subject to the Provisions of the Budget Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Purpose of act.

Section 1. The purpose of this act is to effect economy and efficiency in the public service by providing a means whereby employees who become superannuated or otherwise incapacitated may, without hardship or prejudice, be replaced by more capable employees, and to that end providing a retirement system consisting of retirement compensation and death benefits.

DEFINITIONS

Definitions.

Section 2. The following words and phrases used in this act, unless a different meaning is plainly indicated in the context, shall have the following meanings:

"Retirement system."

(a) "Retirement system" shall mean the "public employees' retirement system" created by this act.

"Contracting city."

(b) "Contracting city" shall mean any municipal corporation in the state which has elected to have all, or any part, of its employees become a part of the retirement system and which has contracted with the board for such purpose.

"Contracting county."

(c) "Contracting county" shall mean any county in the state which has elected to have all or any part of its employees become a part of the retirement system and which has contracted with the board for such purpose. For the purpose of applying the provisions of this act to counties, wherever in this act reference is made to "city", "contracting city", "city employee", "city clerk", "municipal corporation", or "legislative body" of any city or muni-

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cipal corporation, such words shall be construed to read, respectively, as "county", "contracting county", "county employee", "county clerk", "county" or "board of county commissioners" of any county.

"Public agency."

(d) "Public agency" shall mean any public district or other local authority or public body whatsoever.

"Contracting public agency."

(e) "Contracting public agency" shall mean any public agency in the state which has elected to have all or any part of its employees become a part of the retirement system and which has contracted with the board for such purpose. For the purpose of applying the provisions of this act to public agencies, whenever in this act reference is made to "city", "contracting city", "city employee", "city clerk", "municipal corporation", or "legislative body" of any city or municipal corporation, such words shall be construed to read, respectively, as "public agency", "contracting public agency", "public agency employee", "secretary of governing board or analogous authorized employee of the public agency", "public agency", or "governing board or head of a public agency not managed by a board."

"State employee."

(f) State employee. "State employee" means any person in a state office or regularly employed by the state in any capacity whatever and whose salary is paid either by warrant of the state auditor or from the fees or income of any department or agency of the state, excepting all elective and all appointive (except as herein otherwise provided) officers, court commissioners, the members of any state board or commission who serve the state intermittently and are paid on a per diem basis; but including the president and all deans, professors and instructors in every department, college, and school of the university of Montana. Temporary employees shall not be eligible to membership, but probationers thereunder and temporary employees shall become members at the expiration of six months' continuous employment, and deductions shall be made from the salaries of such employees beginning on the first day of the calendar month following the completion of six (6) months' continuous employment. Permanent seasonal employees shall in no event be considered temporary employees.

Temporary employees.

"Head of department."

(g) "Head of department" means the head of any department, institution or branch of the state service which directly pays salaries out of its income or which prepares,

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approves, and submits salary statements of its employees to the state board of examiners, auditor and state treasurer for payment.

"Member." (h) "Member" shall mean any person included in the membership of the retirement system set forth in section 4 and not excluded in section 5 of this act.

"Board." (i) "Board" shall mean the "board of administration" created in this act.

"Retirement fund." (j) "Retirement fund" shall mean the "public employees' retirement fund" created and established in section 13 of this act.

"State service." (k) "State service" shall mean service rendered as an employee, hired or appointed, of the state or its university or any of the colleges, schools, components or units thereof for the purposes of this act, service rendered as an employee of any contracting city for compensation, and, for the purposes of this act, a member shall be considered as being in the "state service" only while he is receiving compensation from the state, or its university as aforesaid or the contracting city for such service, except as provided in subdivision (f) of Section 14 hereof.

"Prison employee." (l) "Prison employee" for the purpose of the retirement system, means persons appointed by the warden of the state prison or by the state board of prison commissioners.

"Prior service." (m) "Prior service" shall mean all state service, or service to a contracting city, rendered before the first day of January, 1945; and all service rendered as an employee of the university before the same date, and all state service rendered as an employee of a contracting city before the effective date of the city's participation in the retirement system, and allowable as provided in subdivision (h), section 14 of this act. Notwithstanding the sentence preceding, "prior service" as applied to a person, employed by the state, including the university, who became a member while employed on a part-time basis, because of amendments to this retirement act, or as applied to a person who became a member prior to said amendments, because of a change in the employment status to a full-time basis, shall mean all state service rendered before the effective date of said membership.

"Continuous service." (n) "Continuous service" as applied to "prior service" shall mean all prior service, regardless of interruptions in such service, and as applied to service as a member shall

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mean uninterrupted employment in state service, except as provided by subdivision (h) section 14 hereof, and, except that when for any cause whatever, a member discontinues state service but subsequently re-enters such service within three years from the date of the discontinuance, such interruption shall not be deemed to break the continuity of service.

"Beneficiary."

(o) "Beneficiary" shall mean any person in receipt of a pension, annuity, retirement allowance, death benefit or any other benefit provided by this act.

"Compensation."

(p) "Compensation" shall mean the remuneration paid in cash out of funds controlled by the state, the university, or the contracting city, plus the monetary value, as determined by the board of administration, of living quarters, board, lodging, fuel, laundry and other advantages of any nature furnished by the state, the university, or the contracting city to a member, in payment for services.

"Compensation earnable."

(q) "Compensation earnable" by a member shall mean the average monthly compensation as determined by the board upon the basis of the average time put in by members in the same group or class of employment and at the same rate of pay, it being assumed that during any absence said member was in the position held by him at the beginning of the absence and that prior to entering state service he was in the position first held by him in such service, but such "compensation earnable" shall not exceed four hundred sixteen dollars and sixty-six cents ($416.66) per month.

"Final compensation."

(r) "Final compensation" shall mean the average annual compensation earnable by a member during the five years immediately preceding his retirement.

"Regular interest."

(s) "Regular interest" shall mean the average interest earned on investments made hereunder, compounded at each June 30th, subject to subdivision (j), section 14 hereof plus such additional interest as the board may credit from year to year in accordance with the provisions of this act.

"Normal contribution."

(t) "Normal contributions" shall mean contributions by members under the provisions of section 18 (g) to (n), both inclusive, of this act.

"Additional contributions."

(u) "Additional contributions" shall mean contributions by members under the provisions of section 18 (k) of this act.

(v) "Accumulated normal contributions" shall mean

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"Accumulated normal contributions." the sum of all the normal contributions standing to the credit of a member's individual account, together with the regular interest thereon.

"Accumulated additional contributions." (w) "Accumulated additional contributions" shall mean the sum of all the additional contributions standing to the credit of a member's individual account, together with the regular interest thereon.

"Accumulated contributions." (x) "Accumulated contributions" shall mean accumulated normal contributions plus any accumulated additional contributions standing to the credit of a member's account.

"Pension." (y) "Pension" shall mean payments for life derived from contributions made from the state controlled funds, or in the case of members from contracting cities from the funds of such cities, as provided in this act.

"Annuity." (z) "Annuity" shall mean payments for life derived from contributions made by a member as provided in this act.

"Retirement allowance." (aa) "Retirement allowance" shall mean the pension plus the annuity.

"Death allowance." (ab) "Death allowance" shall mean payments for life, or until remarriage, or until the youngest child shall attain the age of 18 years, as provided in section 26 hereof.

"Actuarial equivalent." (ac) "Actuarial equivalent" shall mean a benefit of equal value when computed upon the basis of such mortality tables as shall be adopted by the board, and interest at a rate to be annually determined by the retirement board compounded annually, subject to subdivision (j), section 14 hereof.

"Retirement." (ad) "Retirement" shall mean withdrawal from active service with a retirement allowance granted under the provisions of this act.

"Disability" "Incapacity for performance of duty." (ae) "Disability" and "incapacity for performance of duty" referred to herein as a basis of retirement, shall mean disability of permanent duration or disability of extended and uncertain duration, as determined by the board on the basis of competent medical opinion.

"Actuary." (af) "Actuary" shall mean the actuary regularly and continuously employed on a full or part time basis, by the board of administration.

"Benefit." (ag) "Benefit" shall be the retirement allowance, death allowance, death benefit or refund of accumulated contributions provided by this act.

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"Fiscal year."

(ah) "Fiscal year" shall mean any year commencing with July first (1) and ending with June thirtieth (30) next following.

Public employees retirement system created.

Section 3. A retirement system is hereby created and established to become effective July 1, 1945, and to be known as the "public employees' retirement system."

Members.

Section 4. Except as herein expressly excluded from membership all employees shall become members of the retirement system as follows:

Employees who have served six months.

(a) From and after the date this system becomes effective, every employee who has rendered one-half (½) year of continuous service is a member of the retirement system and every other employee shall become a member after the completion of six (6) months of state service, uninterrupted by a break of more than one (1) month, provided that an employee who has entered or enters state service after January 1, 1946, as the result of the assumption by the state of a governmental function previously exercised by a political subdivision thereof and under which function he was employed for at least such six (6) months' period immediately preceding such assumption, shall be considered a member of and after the date of said entry into state service.

Employees who re-enter state service with prior service for six months.

(b) Every employee who re-enters state service after the date this system becomes effective, and who, prior to such re-entry has completed six (6) months of state service, uninterrupted by a break of more than one (1) month, shall become a member of the retirement system upon such re-entry. Time during which an employee of a school district is absent from state service during official vacation, shall be counted as service in determining eligibility for membership under this act.

Employees of school district.

What employees are not eligible.

Section 5. The following employees shall not become members of the retirement system:

Persons excluded, who later become members have the option on making contributions.

(a) Elective officers, other than elective officers who file with the board of administration an election in writing to become members; provided, that any person so excluded from membership, who later becomes a member hereof, shall have the option of making contributions to the retirement system in the amount which he would have contributed had he not been so excluded, and he shall then receive credit for prior service in the same manner as if he had not been so excluded. If he shall affirmatively exercise the option, the

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contributions of the state, or the contracting city because of his membership, shall be the same as they would have been had he not been so excluded.

(b) Inmates of state institutions who are allowed compensation for such service as they are able to perform.

(c) Persons in state institutions principally for the purpose of training, but who receive compensation.

(d) Independent contractors who are not employees.

Certain employees serving on a part-time basis.

(e) Employees serving on a part-time basis unless such employees are members at January 1, 1946, or any time of employment after that date on a part-time basis, or unless such employment is regular and continuous and in the opinion of the employing power will extend for more than one year, and requires service for at least one-half the time required of employees in the same group or class, serving on a full-time basis. Any employee who is a member at January 1, 1946, and who is serving on a part-time basis not requiring at least one-half (½) the time required of employees in the same group or class serving on a full-time basis, may elect to terminate his membership in the system. Any employee so electing shall be considered as permanently separated from state service, solely for the purposes of section 18 (m) of this act.

Persons who file an election not to become members.

(f) Persons in state service on July 1, 1945, or prior thereto, and who file, or have filed, with the board of administration an election not to become members, providing, that any person so excluded from membership may at any subsequent time file with the board of administration an election to become a member, and shall become a member of the retirement system on the date of filing such election. Such person shall receive credit for prior service regardless of the effective date of membership, and shall have the option of paying to the retirement system all or part of the amount which he would have contributed had he not been so excluded but had been a member to and including the date of filing such election to become a member, plus interest which would have accumulated thereon through such date. Upon the retirement of such person under section 19, the pensions provided by contributions of the state under this act shall be the same as if such person affirmatively exercised the option to pay to the retirement system all of that amount with accumulated interest.

(g) Persons directly appointed, by the governor, and

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who do not file with the board of administration an election in writing to become members.

Appointees who do not file election to become members.

(h) Persons who are members of any other retirement or pension system supported wholly or in part by funds of the United States government, any state government or political subdivision thereof and who are receiving credit in such other system for service, it being the purpose of this section to prevent a person from receiving credit for the same service in two retirement systems supported wholly or in part by public funds, and no person shall receive such credit under any circumstances. Any member of the retirement system who, because of his employment by the state, shall be required to become a member of any such other system, shall be considered solely for the purposes of section 18 (m) of this act as permanently separated from state service. The accumulated contributions of any member who shall have died after becoming a member of such other system and before receiving said accumulated contributions, shall be paid to the beneficiary nominated by him to receive any death benefit payable under section 26 hereof. Contributions to the retirement fund under section 35 hereof on the basis of compensation earned by members after the effective date of termination of membership herein because of the membership in such other system, shall be repaid to the fund from which said contributions were made. For the purpose of this section, persons who merely are receiving pensions or retirement allowances, or other payments, from any source whatever, on account of service rendered to some other agency than the state and when such persons were not in state service, shall not be considered, because of such receipt, members of any other retirement or pension system.

Persons who are members of other retirement system.

Persons receiving pensions on account service in other than state agency when not in state service.

CONTRACTS BETWEEN MUNICIPAL CORPORATIONS, COUNTIES AND PUBLIC AGENCIES

Section 6. After receiving from the board of administration, a quotation of the approximate contribution provided for in Section 16, any municipal corporation in the state may participate in the public employees' retirement system, making its employees members of said system, by contract entered into between the legislative body of said municipal corporation and the board of administration of the said retirement system, subject to the provisions of this act. Said contract may include any provisions consistent

Contracts between municipal corporations and board of administration making employees of the said corporations members.

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with this act, necessary in the administration of the retirement system as it affects said employees and municipal corporation. The approval and termination of said contract shall be subject to the following provisions, in addition to the other provisions of this act:

Procedure for approval and termination of such contracts.

(a) Said legislative body shall adopt a resolution giving notice of intention to approve said contract, which resolution shall contain a summary of the major provisions of the proposed retirement system. Such contract shall not be approved unless and until an election has been held to permit the employees proposed to be included in the retirement system to express, by secret ballot, their approval or disapproval of said retirement proposal. The ballot at such election shall include the summary of the retirement system as set forth in the foregoing resolution. The election shall be conducted in such manner as to permit the city employees proposed to be included in the system separately to express their approval or disapproval thereof. Said election shall be conducted in such manner as shall be prescribed by the legislative body of the city. Approval of the contract shall be by ordinance adopted by the affirmative vote of two-thirds (2/3) of the members of said legislative body, not less than twenty (20) days after the adoption of said resolution, or by an ordinance adopted by a majority vote of the electorate of the city voting thereon. The legislative body shall not include in the retirement system any of the city employees above mentioned, a majority of whose members voted to disapprove the proposed system.

All employees of contracting municipal corporations to be included, except as excluded in this act and other approved exclusions.

(b) Said municipal corporation shall include under said contract all of its employees, except as exclusions in addition to the exclusion specified in this act, may be agreed to between it and the board of administration, said exclusions to be based on groups of employees such as by departments, by duties or by age, and not by individual employees. The board of administration, however, shall have the right to disapprove the exclusion of any group, if in its opinion said exclusion affects adversely the interest of said retirement system. Membership in the retirement system shall be compulsory for all employees included under said contract.

Amendments of contract.

(c) Errors in said contract may be corrected through amendments approved by the adoption of suitable resolutions by the contracting parties. Excluded employees may be included under said contract, by groups, through amendments to said contract approved in the manner prescribed

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in this section for the approval of contracts. Additional benefits on account of prior services, provided in this act but not included in said contract, may be included in said contract, through amendments approved in the manner prescribed in this section for the approval of contracts, except that an election among employees shall not be required.

Counties, by contract with board of administration, may participate.

Section 7. Any county in this state may participate in the public employees' retirement system, making all or some of its employees members of such system by contract entered into between the board of supervisors of such county and the board of administration of the retirement system. The provisions of this act relating to cities, employees of cities, the entering into contracts between cities and the board, the method of computing benefits and the benefits payable to city employees, and all other provisions of this act which relate to cities which elect to include employees under the public employees' retirement system shall also apply to counties in the same manner to the same extent, and with the same effect as if counties instead of cities were expressly referred to in such provisions.

Other public agencies in state may, by contract with board, participate.

Section 8. Any public agency in this state, which is not already authorized to do so, may participate in the public employees' retirement system, making all or some of its employees members of said system, by contract entered into between the governing board or head of such agency, and the board of administration of the retirement system. The provisions of this act relating to cities, employees of cities, the entering into contracts between cities and the board, the method of computing benefits, and the benefits payable to city employees, and all other provisions of this act, which relate to cities which elect to include employees under the public employees' retirement system, shall also apply to public agencies in the same manner, to the same extent, and with the same effect, as if public agencies, instead of cities, were expressly referred to in such provisions.

COST OF SERVICE OF MEMBER BORNE BY EMPLOYING SUBDIVISION

Credit for all service rendered as employee or contracting city.

Section 9. An employee of the state or a contracting city shall receive credit, subject to the provisions of this act, for all service rendered by him as an employee of the state or a contracting city, and the cost of benefits based on such service shall be borne by the respective employers in whose

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Cost of benefits borne by employing subdivisions.

service it was rendered, unless the termination of employment by the state or a contracting city is followed by entry into employment by the state if the previous employment was by the state of a different contracting city, more than one (1) year after such termination, in which event service as applied to a member who is an employee of the state or an employee of a contracting city, shall be limited to service rendered as an employee of the state or of the contracting city, as the case may be. If a person is employed concurrently by more than one contracting city, or by the state and one or more contracting cities, his status under the retirement system shall be determined in the same manner as if he were employed in more than one office or department of the state.

Status of person concurrently employed by more than one city or by state and one or more counties.

CHANGE OF STATUS

Section 10. It shall be the duty of the head of each office or department of the state, other than the university, to give immediate notice in writing to the board of administration of the change in status of any member in his office or department resulting from transfer, promotion, leave of absence, resignation, reinstatement, dismissal or death. The head of each such office or department shall furnish such other information concerning any member as the board may require. The registrar of the university, or such other official as the university may designate, shall furnish monthly reports to the board of administration showing changes in the status of any and all members employed by the university during the preceding month, and shall furnish such additional information concerning any or all such members as the board may require in the administration of the retirement system.

Change of status of member, notice to be given to board.

Section 11. The chief administrative officer of a contracting city, or other such person as the legislative body of the city may designate, shall furnish monthly reports to the board of administration showing changes in the status during the preceding month of any and all members who have been included under the retirement system by the city, and shall furnish such additional information concerning any or all of such members as the board may require in the administration of the retirement system, and further, shall furnish such services of its offices and departments as the board may request in connection with claims by said members against the system.

Monthly reports of change of status of member employees.

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TERMINATION OF MEMBERSHIP

Section 12. Each member and each person retired shall be subject to all the provisions of this act and to the rules and regulations adopted by the board of administration. Any person who is retired and any person who is credited with less than twenty (20) years of state service and who renders less than five (5) years of service in any period of ten (10) consecutive years, or withdraws more than one-fourth (¼) of his normal contributions, ceases to be a member.

Termination of membership.

FUND CREATED

Section 13. A fund is hereby created and established to be known as the "public employees' retirement fund" and shall consist of all the cash, securities or other assets paid into it in accordance with the provisions of this act.

Fund created.

BOARD OF ADMINISTRATION

Section 14. The board of administration shall consist of seven (7) members, as follows: The secretary of state, the attorney general, the state treasurer, the state auditor and three (3) public employees who shall be members of the retirement system, and who shall be appointed by the governor in the following fashion: The original appointments shall be as follows: One for a term of one (1) year, one for a term of two (2) years and one for the term of three (3) years; and thereafter as the respective terms expire, each appointment shall be for a term of three (3) years; provided, that not more than one (1) employee member of the retirement board shall be an employee of the same state department, bureau or agency.

Board of administration.

(a) Vacancy on board—how filled. Any vacancy occurring ninety (90) days or more before the expiration of the term of any employee member of the retirement board shall be filled by appointment by the governor. The person thus appointed shall serve for the remainder of the unexpired term.

Vacancy on board—how filled.

(b) The board may establish such rules and regulations as it deems proper, within the limitations of this act and for its proper administration, operation and enforcement. The board shall elect one of its members president, and shall appoint and fix the compensation of a secretary who shall have the power to administer oaths, and other necessary em-

Powers and duties of board.

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ployees. It shall maintain its office in the City of Helena. A quorum of the board shall be four (4) members. The board may appoint a committee of one or more of its members, which shall have authority to perform routine acts, such as retirement of members and fixing of retirement allowances, approval of death claims and correction of records necessary in the administration of the system in accordance with the provisions of this act and rules and regulations of the board. All expenses of the administration of this act in excess of amount provided by the one dollar ($1.00) membership fee shall be a charge on the appropriation made from general fund of the state. The members of the board shall serve without compensation, but they shall be reimbursed for actual and necessary expenses incurred through service on the board out of the appropriation for the administration of this act.

Compensation.

Determination of who are employees and eligibility for benefits.

(c) The board shall determine who are employees within the meaning of this act and shall be the sole authority and judge under this act as to the conditions under which persons may be admitted to and continue to receive benefits under the retirement system and shall have exclusive control of the administration and investment of the fund. As soon as practical after the close of each fiscal year, the board shall file with the governor a report of its work for such fiscal year.

Annual report.

Allowances for service and disability.

(d) Subject to the following and to all other provisions of this act, and such rules and regulations as it may adopt in pursuance thereof, the board shall determine and may modify allowances for service and disability.

Credits for service.

(e) The board of administration shall fix and determine how much service rendered in any fiscal year shall be the equivalent of a year of service and parts thereof, but shall credit one (1) year for two hundred and fifty (250) or more days of service rendered by employees on a per diem basis and one (1) year for ten (10) months or more of service rendered by employees on a monthly basis, but not more than one (1) year for all service in any fiscal year. In determining the credit to be granted for service rendered on a part-time basis, for purposes of calculating retirement allowances, the service shall be reduced to a full-time basis according to the service required, in the next preceding sentence, for credit for one (1) year of service. In calculating benefits based on service so determined, except in calculating the additional pension provided in subdivision (g)

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of section 20 compensation earnable shall be taken as the compensation which would be earnable if the employment had been on a full-time basis, and with a compensation derived by multiplying the member's compensation by ratio of full time to the time he was required by his employment to engage in his duties. In calculating the credit to be granted for service rendered on a part-time basis, for purposes of determining qualifications for retirement, and of calculating benefits payable upon death before retirement, the service required in this paragraph for credit for a year of service shall not be used, but instead, a year of service shall be credited for each year during which the member was employed throughout the year on a part-time basis and was engaged in his duties the full amount of time he was required by his employment to be so engaged. Credit for fractional years will be granted to the extent of the fraction derived by dividing the time during which the member was engaged in his duties within the year, by the time he was required by his employment to be so engaged.

Calculation of benefits based on service.

(f) Time during which a member is absent from public service without compensation shall not be allowed in computing service; except that time during which a member is absent from public service by reason of having been ordered on duty with the armed forces of the United States, or by reason of voluntary service by the member in said forces or on ships operated by or for the United States government, either during a war involving the United States as a belligerent or in any other national emergency, and for ninety (90) days thereafter shall be considered as time spent in public service, for the purpose of qualification for retirement and death benefits, but not for calculation of retirement benefits unless the member elects to contribute and contributes under the retirement system. Any member so absent and until his return within the said ninety (90) days may resign from the system. Any members so absent shall have the right to contribute to said system, either during his service with the armed forces of the United States or in the merchant marine of the United States, and ninety (90) days thereafter or upon his return to the state service, at times and in a manner fixed by the board of administration, amounts equal to the contribution which would have been made by him to the system on the basis of his compensation earnable at the commencement of his absence. If he does so contribute, he shall receive credit for public serv-

Absence from public service without compensation.

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ice for such time in the same manner as if he had not been absent from public service. Whenever a member elects to continue his contributions, the state or the contracting city, or county or other agency shall thereupon contribute an amount equal to that which it would have contributed under Section 35 of this act or under the contract between the board and the legislative body, as the case may be, if the member had not been absent from state service.

Member absent from state service by order to duties outside state service.

Any member so absent or any member absent from state service by reason of having been ordered by an authorized official of the State of Montana or the United States, to duties outside state service shall be paid upon his request, his accumulated contributions. Such payment shall terminate any election by said member under this section to contribute.

Absence by reason of injury or illness.

Time during which a member is absent from public service by reason of injury or illness determined within one (1) year after the end of such absence as arising out of and in the course of his employment, shall be considered as spent in public service, for the purpose of qualification for retirement and death benefits, but not for the calculation of retirement benefits, except as he received compensation, as defined in this act and as distinguished from disability indemnity under the workmens compensation act during the absence, and then only to the extent of compensation received.

Employees to file information affecting status.

(g) Each employee shall file with the board of administration such information affecting his status as a member of the retirement system as the board may require.

Credit for prior service.

(h) Credit for prior service shall be granted to each person other than persons who are employees of the university or of a contracting city at the time of becoming members of the retirement system, who has rendered such service as defined in this act, and who has become a member of the retirement system on January 1, 1946, or within three years after last rendering prior service, the prior service credited, however, to be one-half (½) year less than the total prior service rendered by him. Credit for prior service shall be granted to each person who is employed by the university at the time of becoming a member of the retirement system regardless of whether he has been retired under the system prior to the effective date hereof, who has rendered such service as defined in this act and who has become a member of the retirement system on January 1, 1946, or within three

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(3) years after last rendering prior service, the prior service credited, however, to be one-half (½) year less than the total prior service rendered by him.

Credit for prior service by city employee.

Credit for prior service shall be granted to each person who is employed by a contracting city at the time of becoming a member of the system, who has rendered such service as defined in this act, and who has become a member of the retirement system within three (3) years after last rendering prior service. Notwithstanding the three sentences next preceding, credit for prior service shall be granted to each person employed by the state including the university, who became a member while employed on a part-time basis, because of amendments to this retirement act, or who became a member prior to said amendments, because of a change in status to a full-time basis, but prior service credited shall be one-half (½) year less than the total prior service rendered by him. The credit for prior service to be granted persons employed by a contracting city who are included under the retirement system shall be established by contract between the board and the legislative body of such city; and such credit as may be granted to a person shall be in the form of a percentage, not to exceed the analogous percentage applicable to employees of the state, for each year of prior service. Prior service so credited shall be the basis for a retirement allowance or benefit as provided in this act only if the membership in the retirement system continues unbroken until retirement or retirement allowance or until the granting of such other benefit; provided, that termination of membership by withdrawal of accumulated contributions followed by the redeposit of such contributions upon re-entrance into public service as herein provided shall not constitute a break in membership, but this section shall not be construed to entitle any person to credit as prior service for time during which he was not in public service as defined in this act.

Management and control of system.

(i) The management and control of the retirement system shall be vested in the board of administration, and it shall exercise the following powers and perform the following duties:

Powers and duties of board.

(j) The board of administration shall keep in convenient form such data as shall be necessary for the actuarial valuation of the retirement fund created by this act. On July 1, 1946, and at the end of every two-year period thereafter, it shall cause to be made an actuarial

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investigation into the mortality, service and compensation experience of the members and beneficiaries under the provision of this act, and shall further cause to be made an actuarial valuation of the assets and liabilities of the public employees' retirement fund herein created, and from time to time shall determine the rate of interest being earned on the said retirement fund. Upon the basis of any or all of such investigation, valuation, and determination, said board shall adopt such mortality, service and other tables and such interest rate, in lieu of the interest rate specified herein, or any of such items as it shall deem necessary, and shall make such revision in rates of contributions of members as it may deem necessary to comply with the provisions of section 18 hereof. No adjustment shall be included in the new rates for time prior to the effective date of such revision.

Interest or contributions of members of beneficiaries.

(k) The board shall credit contributions of members of beneficiaries, of the state and of contracting cities with interest at the rate being used under the system on the effective date hereof, compounded each June 30th, subject to the foregoing subdivision (j) of section 14. At the end of each fiscal year, beginning with the second fiscal year of the operation of the retirement system, it may credit to all contributions held in the retirement fund at June 30th of the then current fiscal year, such interest in excess of said rate provided herein as it may deem proper in the light of the earnings of the retirement fund during such fiscal year, but such additional interest credited during any fiscal year shall not be greater than the excess of said earnings over the interest otherwise credited to contributions during that year. Interest at said rate, compounded annually, subject to said foregoing subdivision (j) hereof, shall be used in the calculation of benefits under any mortality table adopted by the board, regardless of any additional interest allowed on contribution under this paragraph.

Records and accounts to be kept.

In addition to other records and accounts, it shall keep such records and accounts as may be necessary to show at any time:

The total accumulated contributions of members.

The total accumulated contributions of retired members less the annuity payments made to such members.

The accumulated contributions of the state and of contracting cities held for the benefit of members on account of service rendered as members of the retirement system.

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All other accumulated contributions of the state and of contracting cities which shall include the amounts available to meet the obligation of the state and of the contracting cities, respectively on account of benefits that have been granted to retired employees and on account of prior service of members.

Financial statement to be published annually.

(l) In addition to rendering the annual report to the governor required by subsection (e) of this section, it shall cause to be published annually a financial statement showing an actuarial valuation of the assets and liabilities of the retirement system created by this act and a statement as to the accumulated cash and securities in the retirement fund as certified by the state auditor, but until all prior service is verified, the board of administration may omit from the financial statement published annually, assets and liabilities resulting from such prior service, and may include assets and liabilities on account of service rendered as members in amounts equal only to accumulated contributions held on account of such service.

PRIOR SERVICE OF CITY, COUNTY AND PUBLIC AGENCY EMPLOYEES

Prior service of city, county and public agency employees.

Section 15. The board of administration is hereby empowered to make arrangements with any contracting city for the payment of the prior service liability as computed by the actuary, on such terms as the financial conditions of the contracting city will permit. Should the legislative body of any city having an existing retirement, pension or annuity fund or system, hereafter referred to as the local system, desire to make all or part of the members of the local system members of the public employees' retirement system, it may enter into a contract for that purpose with the board of administration in the manner provided in section 6 and 16 of this act, provided, however, that the employees voting as provided in subdivision (a) of section 6 shall be limited to active members of the local system voting as a unit, and approval shall require a two-thirds vote of such employees. All members of the local system included in said contract shall become members of said employees' retirement system, and shall no longer be members of the local system, and the provisions of this act shall also apply, except that the existing pensions being paid to pensioners or annuitants of the local system on the date of the approval shall be continued and paid at their existing rates by the

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public employees' retirement system and the liability on this account shall be included in the computation of the prior service liability by the actuary as provided for herein. Subject to the approval of the board of administration, as for all other employees, the contracting city may elect to continue the local system and to place under the retirement system only a portion of the members of the local system. Any cash and securities to the credit of the local system and held on account of persons who become members of the public employees' retirement system, shall be transferred to the said system as of the date of the approval, the value at which said securities shall be credited to the contracting city, being determined by the board of administration. The trustees or other administrative head of the local system as of the date of the approval, shall certify the proportion, if any, of the funds of the system that represents the accumulated contributions of the members, and the relative shares of the members as of that date. Such shares shall be credited to the respective individual accounts of such members in the Montana public employees' retirement system, and administered as if said contributions had been made during membership in said system, except that the annuity provided by said contributions with accumulated interest shall be deducted from the pension which otherwise would be payable on account of prior service. The total of the funds transferred to the Montana public employees' retirement system shall be offset against the prior service liability before determining the contribution to be paid by the contracting city as provided herein. If all the members of the local system become members of the retirement system, the operation of the local system shall be discontinued as of such date as is provided for in the contract between the board and the legislative body of the contracting city.

Continuation of local system.

COST TO CITIES, COUNTIES AND PUBLIC AGENCIES

Section 16. When the legislative body of a municipal corporation desires to consider the participation of said municipal corporation in the retirement system, said body shall ask the board of administration for a quotation of the approximate contribution to the retirement system which would be required of the municipal corporation because of such participation. Said approximate contribution quoted by the board and the definitive contribution certified by

Cost to cities, counties and public agencies.

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the board as provided in section 17 shall be determined by actuarial valuations of the prior and future service liability under the retirement system, on account of employees of such municipal corporation whose memberships are contemplated, in the determination of the approximate contribution, or who become members, in the determination of the definitive contribution, in the same manner as the contribution required of the state on account of its employees was originally determined; provided, that in consideration of the number of employees of the municipal corporation or other circumstances, a different manner of determining said contribution may be adopted by the board, upon recommendation of the actuary. The approximate and definitive contributions are similar to premiums under insurance policies. Said approximate contribution shall be quoted by the board to the municipal corporation, subject to the understanding that the definitive contribution certified by the board after the approval of a contract as provided in section 17, may differ from said approximate contribution because of (1) change in number or salaries of employed included; (2) change in prior service benefits; (3) time elapsed between said quotation and effective date of said contract; (4) change in effective date of membership; (5) change in manner of determining contribution; and (6) any other changes in the facts or assumptions upon which said determination was based.

Duties of municipal corporations.

It shall be the duty of the municipal corporation to furnish to the board of administration such data about its employees as the board may deem necessary for such valuations including an investigation into the experience among said employees. It shall also be the duty of the municipal corporation, at the option of the board of administration, to have such valuations and the investigation and valuations required by section 14 with respect to its employees, made through a consulting actuary and the municipal corporation, said contract to be subject to the approval of the board, and said valuations to be under the direction of the actuary of the retirement system. The services under said contract shall be deemed services rendered to the municipal corporation and not to the state.

The board of administration, however, may elect to have such valuations made in its office under the direction of the actuary of the retirement system, in lieu of having said valuations made through a consulting actuary. Regardless

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of how such valuations are made, all data in connection therewith, including work sheets, final results, and reports from said consulting actuary, shall be the property of the board of administration and shall be delivered to said board at the conclusion of said valuations. The expense of determining initially such approximate and definitive contributions, and of the investigation and valuation required by subdivision (j) of section 14 with respect to its employees, shall be assessed against and paid by the municipal corporation on whose account it is incurred, said payment being made directly to said consulting actuary for services rendered under said contract and directly to the board of administration for services rendered by its employees. The board may include each year in the contribution required of the contracting city, a reasonable amount which may differ from city to city as determined annually, to cover the costs of administering the system as it affects the active and retired employees of said city. All such payments made to the board of administration by municipal corporations shall be credited to the current appropriation for support of the board and available for expenditure by the board.

Expenses chargeable to municipal corporations.

Section 17. The contracting city participating in the system as provided in this act, shall make such contribution to the retirement system, on account of its approval of the participation of its employees in the public employees' retirement system, as may be recommended by the actuary, in either or both fixed sums or percentage of total compensation of said employees who are members, approved by the board of administration and certified by said board to the legislative body of the contracting city, said contribution being also referred to herein as definitive contribution. Said definitive contribution shall be subject to such adjustment as may be necessary on account of any additional prior service credits which the contracting city may desire awarded to employees of such contracting city or on account of experience under the system as determined by the periodical investigation, valuation and determination provided for in subdivision (j) of section 14 hereof. Said contribution shall be paid to the retirement system at times and in the manner provided in the contract between the system and the contracting city. The legislative body of said contracting city shall budget in each fund, from which compensation for personal services are paid in whole or in part, an amount sufficient to pay the contributions required to the

Contribution to be made by contracting city.

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retirement system, and, if moneys are not available in such funds from general revenue sources in sufficient amount for that purpose, shall have authority to budget, levy and collect annually a special tax upon the assessable property within the city in the number of cents per one hundred dollars ($100.00) of assessable property as will be sufficient to raise the amount estimated by the said legislative body to be required to provide sufficient revenue to meet the obligation of the city to the retirement system under this section and under section 6; which said rate of taxation may be in addition to the annual rate of taxation allowed by law to be levied in said city. Any person who is a member or beneficiary of the retirement system on account of the participation of said contracting city, shall have the right to maintain appropriate action or proceeding to require performance of the duty imposed on said legislative body by this section and section 6.

MANAGEMENT OF RETIREMENT FUND

Section 18. The retirement fund shall be managed as follows:

(a) The board of administration shall have exclusive control of the administration and investment of said fund, subject to the terms, conditions, limitations, and restrictions imposed by the laws of the State of Montana upon savings banks in the making of investments by savings banks.

Control of administration and investment of fund.

(b) Investments of said fund shall be made in the manner following and in no other way:

Investments of fund, how made.

The board of administration may by affirmative vote from time to time adopt a list of acceptable securities and specify either (i) the sum to be invested or (ii) the cash reserve to be retained in the fund and not invested. While such a list is in effect, securities may be purchased from such list up to the amount so specified for investment by an officer or employee of said board of administration, to be designated by said board for such purpose. Securities duly purchased from said list in the manner hereinbefore provided shall be reported to the board of administration at its next regular meeting.

(c) The board of administration shall deposit monthly in the state treasury all amounts received by it as provided in this section and section 35.

Monthly deposit in state treasury.

(d) The state treasurer shall be the custodian of the re-

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State treasurer to be custodian of fund.

tirement fund, subject to the exclusive control of the board of administration as to the administration and investment thereof. All payments from said fund shall be drawn from

Payment upon warrants.

the fund upon warrants drawn by the auditor of the state, upon demands made by the board of administration.

Interest and income earned.

(e) Interest earned on any cash deposit in a bank by the state treasurer and income on other assets constituting a part of the said fund shall be paid into said fund as received. Income, of whatever nature, earned on the retirement fund during any fiscal year, in excess of the interest credited to contributions during said year shall be retained in said fund as a reserve against deficiencies in interest earned in other years, losses under investments, and other contingencies.

Members and employees of board forbidden to have interest in making investment or to borrow any of board's funds.

(f) Except as herein provided, no member and no employees of the board of administration shall have any interest direct, or indirect, in the making of any investment, or in the gains or profits accruing therefrom. And no member or employee of the said board directlly or indirectly, for himself or as an agent or partner of others, shall borrow any of its funds or deposits, nor shall any such member or employee in any manner use the same except to make such current and necessary payments as are authorized by said board; nor shall any member or employee of said board become an indorser or surety as to, or in any manner an obligor for investments by the board.

Normal rates of contributions of members.

(g) The normal rates of contribution of members shall be based on sex and the age at the nearest birthday at the time of entrance into the retirement system. The normal rates of contribution shall be such as will provide an average annuity at age 65 equal to one one hundred-fortieth of the final compensation of members, according to the tables adopted by the board, for each year of service rendered after entering the system. Nothing in this section shall prevent the adoption of one schedule of rates for males and one schedule for females.

Amount of annuity receivable by member.

(h) The actual amount of annuity receivable by any member upon retirement shall be the actuarial equivalent of his accumulated contributions, as provided in subdivisions (a) and (k) of section 20 hereof.

(i) The board of administration shall certify to the head of each office or department of the state and to the registrar of the university the normal rate of contribution as provided in this act for each member in such office, de-

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partment, or the university, respectively. The head of each office or department of the state shall apply such rate of contribution to so much of the compensation of each member as does not exceed four hundred sixteen dollars and sixty-six cents ($416.66), per month and shall certify to the state auditor on each and every pay roll the amount to be contributed and shall furnish immediately to the board of administration a copy of each and every such pay roll; and each such amount shall be deducted by the head of each office or department and shall be remitted to the board. The registrar of the university shall apply the rate of contribution certified to him by the board to so much of the compensation of each member employed by the university as does not exceed four hundred sixteen dollars and sixty-six cents ($416.66) per month, and the contributions so determined shall be deducted by the registrar of the university from the compensation of each such member; each such amount shall be remitted to the board and the registrar of the university shall furnish to the board a copy of each and every salary roll and pay roll from which such amounts have been deducted. Each contribution deducted and remitted to the board shall be credited by the board, together with regular interest, to an individual account of the member for whom the contribution was made. Payment of salaries or wages less such contribution shall be full and complete discharge and acquittance of all claims and demands whatsoever for the service rendered by members during the period covered by such payment, except their claims to the benefits to which they may be entitled under the provisions of this act.

Application of such rate to compensation of members.

(j) The board of administration shall certify to the city clerk, or other officer designated by the legislative body, of each contracting city the rate of contribution as provided in this act for each member included under the retirement system respectively. The city clerk, or other officer, shall apply the rate of contribution certified to him by the board to so much of the compensation of each member included in the retirement system as does not exceed four hundred sixteen dollars and sixty-six cents ($416.66) per month, and the contribution so determined shall be deducted by the city clerk, or other officer, from the compensation of each such member; each such amount shall be remitted to the board and the city clerk or other officer, shall furnish to the board a copy of each and every salary

Application of rate of contribution to be applied compensation of members employed by cities.

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roll and pay roll from which such amounts have been deducted. Each contribution deducted and remitted to the board shall be credited by the board, together with regular interest, to an individual account of the member for whom the contribution was made. Payment of salaries or wages less such contribution shall be full and complete discharge and acquittance of all claims to the benefits to which they may be entitled under the provisions of this act.

Election by members to contribute at higher rates.

(k) Subject to the rules and regulations to be established and promulgated by the board of administration, any member may elect to contribute at rates in excess of those provided for in subsection (i) and (j) of this section of this act, for the purpose of providing additional benefits, but the exercise of this privilege by a member shall not place on the state or contracting city any additional financial obligation. The provisions of subdivisions (f) and (g) of section 5 shall apply also to additional contributions. The board, upon application shall furnish to such member information concerning the nature and amount of additional benefits to be provided by such additional contributions.

Annual membership fee payable by members.

(l) In addition to the contributions hereinbefore provided to be paid by employees who are members of the retirement system created by this act, every such employee shall pay an annual membership fee of $1.00 which amount, together with other moneys appropriated for that purpose, shall be used for the support of the board of administration.

Payment of accumulated contributions to member whose state service has been discontinued.

(m) Should the state service of a member be discontinued otherwise than by death or retirement, he shall, six months after the date of discontinuance, be paid such part of his accumulated contributions as he demands, except that if the member is credited with less than 20 years of state service and, in the opinion of the board of administration, is permanently separated from state service by reason of such discontinuance, he shall be paid forthwith seventy-five per centum (75%) of his accumulated contributions without interest. The board may, in its discretion, withhold for not more than one year after a member last rendered state service all or part of his accumulated normal contributions if after a previous discontinuance of state service he withdrew all or a part of his accumulated normal contributions and failed to redeposit such withdrawn amount in the retirement fund as provided in subsection (n).

(n) Any member may redeposit in the retirement fund,

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in one sum or in not to exceed 12 monthly or 24 semi-monthly payments, an amount equal to that which he withdrew therefrom at the last termination of his membership, subject to minimum monthly or semi-monthly payments as fixed by the board of administration. If a member, upon re-entering the retirement system after a termination of his membership, does not elect to make or, having so elected, subsequently does not make such redeposit, he shall re-enter as a new member without credit for any service except the prior service credited to him before said termination, and the rate of his contribution for future years shall be the normal rate provided for in this act at his age of re-entrance; otherwise his rate of contribution for future years shall be the same as his rate prior to the last termination of his membership, and his membership shall be the same as if unbroken by such last termination. Regardless of whether such redeposit is made, the documents held by the retirement system as executed by said member prior to termination of membership shall be held by the system for the same purposes as prior to said termination, and beneficiaries nominated in such documents shall continue unchanged until changed as provided herein.

Redeposit in fund by member upon re-entering system.

Section 19. Retirement of a member for service shall be made by the board of administration as follows:

COMPULSORY SERVICE RETIREMENT

(a) From and after July 1, 1947, until January 1, 1951, every member shall be retired on the first day of the calendar month next succeeding that in which he attains the age of seventy-five (75) years. Every employee of the university who becomes a member, and who, at the time of becoming such member has attained the age of seventy-five (75) years, shall be retired forthwith. On and after January 1, 1951, every member who at that time has attained the age of seventy (70) years, shall be retired forthwith, and thereafter every such member must be retired on the first day of the calendar month next succeeding that in which he attains the age of seventy (70) years.

Compulsory service retirement.

REINSTATEMENT FROM SERVICE RETIREMENT

(b) Not withstanding any other provision of this act, until October 1, 1947, or the termination of the war in which the United States is now engaged, whichever is

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earlier, any person who has been retired for service (as distinguished from disability) under the provisions of this act may be employed in state service in accordance with the laws governing such service, in the same manner as a person who has not been so retired, upon the determination of the board of administration, by medical examination, that he is not incapacitated for the duties proposed to be assigned to him.

Reinstatement from service retirement.

(c) Any person so employed shall be considered as reinstated from retirement and his retirement allowance shall be cancelled forthwith. His individual account shall be credited with an amount which is the actuarial equivalent of his annuity at the time of such reinstatement, and his rate of contribution for future years shall be the same as if he had continued in state service during the period of his retirement. Such person shall receive credit for prior service in the same manner as if he had never been retired.

Adjustments upon re-employment.

VOLUNTARY SERVICE RETIREMENT

Voluntary service retirement.

(d) Upon attaining the age of sixty-five (65) years or more and completing thirty (30) years of continuous state service credited under this act, any member shall be retired upon his written application to the board.

SERVICE RETIREMENT ALLOWANCE

Service retirement allowance.

Section 20. A member upon retirement from service is entitled to receive a service retirement allowance which shall consist of:

Annuity.

(a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his requirement.

Pension.

(b) A pension, purchased by the contributions of the state, or the contracting city, equal to that portion of the annuity purchased by the accumulated normal contributions of the member; and

Additional pension.

(c) An additional pension, purchased by the contributions of the state, for members other than persons who are employees of the university at the time of becoming members, and members employed by a contracting city. Such additional pension shall be equal to one-seventieth of the average annual compensation earnable by him during the three years preceding retirement, multiplied by the number of years of prior service, except that if a member retires

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before attaining the age of sixty-five (65) years, the additional pension shall be reduced to that amount which the value of the pension computed as provided in this paragraph as deferred to age sixty-five (65), will purchase at the actual age of retirement.

Reduction of additional pension when member retires before attaining age of sixty-five years.

(d) If a member retires before attaining the age of sixty-five years, the additional pension shall be reduced to that amount which the value of the pension computed as provided in this section as deferred to age sixty-five (65) will purchase at the actual age of retirement.

Additional pension for members who are employees of the university.

(e) An additional pension, purchased by contributions of the state, for members who are also employees of the university at the time of becoming members, said additional pension to accrue from the date of retirement under the system regardless of whether said retirement was prior to the effective date hereof. Such additional pension shall be equal to one-seventieth of the average annual compensation earnable by him during the three years preceding retirement, multiplied by the number of years or prior service credited to him, except that if a member retires before attaining the age of sixty-five (65) years, the additional pension shall be reduced to that amount which the value of the pension computed as provided in this paragraph as deferred to age sixty-five (65), will purchase at the actual age of retirement. If, however, a member who is employed by the university at the time of becoming a member, shall not have rendered state service before January 1, 1946, his additional pension shall be based upon one-seventieth of the average annual compensation earnable by him during the first year of state service or such portion thereof as he may have served before January 1, 1946, multiplied by the number of years of prior service credited to him.

Additional pension for prior services of employees of contracting city.

(f) An additional pension on account of prior service, purchased by the contributions of the contracting city for members who are also employees of a contracting city as may be provided for under the contract between the board and the contracting city.

MINIMUM GUARANTEE

(g) When a member enters the retirement system with credit for prior service, and retires after attaining the age of seventy (70) years, if his final compensation was such that one-half thereof is in excess of the total of his pension,

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annuity, and additional pension for prior service, a second additional pension for prior service sufficient to cause his retirement allowance to amount to one-half of such final compensation shall be paid him on account of prior service, but in no event shall a greater second additional pension be paid than will cause the total retirement allowance, exclusive of the annuity provided by his accumulated additional contributions, to amount to the sum of four hundred eighty dollars ($480.00) per year. The provisions of this section shall not apply to the members who are employees of a contracting city unless provided for by contract between the board and the contracting city, but if a member be employed by more than one of such cities, his aggregate retirement allowances shall be taken into account in applying said provisions, and said application shall be made as if the member was employed by one or more offices or departments of the state.

Second additional pension.

DISABILITY RETIREMENT

(h) Any member shall be retired for disability regardless of age or amount of service, if incapacitated for the performance of duty as the result of an injury or disease arising out of and in the course of his employment. Incapacity for performance of duty shall be determined by the board of administration, but the industrial accident board shall determine, in the same manner as for all other state employees, whether such incapacity is the result of injury or disease arising out of and in the course of employment. In the absence of an application to the industrial accident board, filed by a proper party, the board of administration hereunder shall proceed with retirement and with the payment of benefits payable under the retirement system when disability does not result from injury or disease arising out of and in the course of their employment. If the industrial accident board determines on the basis of such an application subsequently filed, that disability resulted from injury or disease arising out of and in the course of employment, an amount equal to said benefits shall be deducted from the benefits payable under the retirement system because of such determination. Any such member incapacitated for the performance of duty by reason of a cause not included in the immediately preceding sentence, and any other member so incapacitated, regardless of the cause, shall be retired regardless of age but only after ten (10) years of service to the state, or to the contracting city.

Disability retirement.

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(i) Subject to the requirements as to service and cause of disability stated in subdivision (h) of this section, and upon the application of a member or upon the application of the head of the office or department in which such member is or was last employed, or upon application of the university if such member is an employee of the university, or any other person on behalf of such member, while such member is in state service, within four months after such member's discontinuance of state service, or while such member continuously, from the date of discontinuance of state service to the time of the application or motion, is physically or mentally incapacitated to perform his duties, may apply for, or the board of administration upon its own motion may order, a medical examination to determine the existence of such incapacity. Upon the receipt of such application, the board of administration shall order such medical examination. If the medical examination and other available information show, to the satisfaction of said board, that the member is incapacitated physically or mentally for the performance of his duties in the state service, the said board shall forthwith retire the member for disability. The said board shall secure such medical service and advice as is necessary to carry out the purpose of this section and of sections 21 through 24 inclusive, of this act, and shall pay for such medical services and advise such compensation as the board deems reasonable.

Medical examination.

DISABILITY RETIREMENT ALLOWANCE

(j) Upon retirement for disability a member who has attained the age of sixty (60) years shall receive a service retirement allowance as provided by subsections (a), (b), (c) of this section. Upon retirement of a member for disability resulting from injury or disease arising out of and in the course of employment, such member shall receive a retirement allowance of fifty (50) per centum of his final compensation.

Disability retirement allowance.

(k) Upon retirement for disability a member who is an employee of the university and who has attained the age of sixty (60) years, shall receive a service retirement allowance as provided in subdivisions (a), (b) and (c) of section 20 of this act.

Member employed by university.

(l) Every other member retired for disability shall receive a retirement allowance which shall consist of:

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Annuity.

(i) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement; and

Amount of pension plus annuity.

(ii) If, in the opinion of the board of administration, such disability is not due to intemperance, wilful misconduct or violation of law on the part of the member, a pension purchased by the contributions of the state, or of the contracting city, which, together with his annuity provided by his accumulated normal contributions, shall make the retirement allowance, exclusive of the annuity provided by his accumulated additional contributions, equal to (a) ninety (90) per cent of one-seventieth (1/70) of his final compensation multiplied by the number of years of service credited to him, if such disability retirement allowance exceed one-fourth (¼) of his final compensation; otherwise, (b) ninety (90) per cent of one-seventieth (1/70) of his final compensation multiplied by the number of years of service which would be creditable to him were his service to continue until attainment by him of age sixty-five (65), but in such case the retirement allowance shall not exceed one-fourth (¼) of such final compensation. In no event, however, shall the pension purchased by the contributions of the state or of the contracting city be more than sufficient to make the disability retirement allowance, exclusive of the annuity provided by accumulated additional contributions, exceed the service retirement allowances, exclusive of any annuity purchased by accumulated additional contributions, receivable by the member should he retire at the lowest age at which he would be eligible for service retirement.

In case of disability due to intemperance or wilful misconduct.

(iii) If, in the opinion of the board, the disability is due to intemperance, wilful misconduct or violation of law, on the part of the member, and the annuity to which said member is entitled under subdivisions (j), (k) and (l) of section 20 of this act, is less than two hundred forty dollars ($240.00) per year, the board of administration in its discretion, may pay to said member, in one lump sum and in lieu of said annuity, his accumulated contributions.

REINSTATEMENT FROM DISABILITY RETIREMENT

Reinstatement from disability retirement.

Section 21. (a) The board of administration, may, at its pleasure, require any disability beneficiary, under the age of sixty (60) to undergo medical examination. Such

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examination shall be made by a physician or surgeon, appointed by the board, at the place of residence of said beneficiary or other place mutually agreed upon. Upon the basis of such examination the board shall determine whether said disability beneficiary is still incapacitated, physically or mentally, for service in the office or department of the state or of the contracting city, where he was employed and in the position held by him when retired for disability, or for duties proposed to be assigned to him. If the board of administration determines that said beneficiary is not so incapacitated, his retirement allowance shall be cancelled forthwith. If he was an employee of the state or of the university, he shall be reinstated to the position held by him when retired for disability or to a position in the same classification with duties within his capacity. If he was an employee of a contracting city, the board shall notify the proper official of said city that said disability has been terminated and that said person is eligible for reinstatement to duty. The fact that said person was retired for disability shall not prejudice any right to reinstatement to duty which he may have or claim to have.

In case of city employee not reinstated.

(b) In the case of such a member who is an employee of a contracting city, and who for any reason is not so reinstated or is not re-employed by said city in a position subject to the retirement system, he shall be paid an amount which is the actuarial equivalent of his annuity at that time, as based on a disabled life, but said amount shall not exceed the amount of his accumulated contributions as such amount stood at the time of his retirement for disability.

In case of disability beneficiary re-entering state service and be eligible for membership in accordance with section 4 of act.

(c) Should a disability beneficiary re-enter the state service and be eligible for membership in the retirement system in accordance with section 4 of this act, his retirement allowance shall be cancelled and he shall immediately become a member of the retirement system, his rate of contribution for future years being that established for his age at the time of such re-entry. His individual account shall be credited with an amount which is the actuarial equivalent of his annuity at that time, as based on a disabled life, but such amount shall not exceed the amount of his accumulated contributions as such amount stood at the time of his retirement for disability. Such members shall receive credit for prior service in the same manner as though he had never been retired for disability.

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REDUCTION OF ALLOWANCE WHEN EMPLOYED

Reduction of allowance when employed.

Section 22. Should a disability beneficiary, prior to attaining age sixty (60) engage in a gainful occupation not in the state service or should he re-enter the state service in a capacity ineligible for membership in the retirement system, the board of administration shall reduce the amount of his monthly pension to an amount which, when added to the compensation earned monthly by him in such occupation, shall not exceed the amount of his monthly compensation at the time of his retirement. Should the earning capacity of such beneficiary be further altered, the board may further alter his pension to an amount which shall not exceed the amount upon which he was originally retired, but which, subject to such limitation, shall equal, when added to the compensation earned by him, the amount of his compensation at the time of his retirement. When such a disability beneficiary reaches age sixty (60), his retirement allowance shall be made equal to the amount upon which he was originally retired, and shall not again be modified for any cause.

Refusal of beneficiary under 60 to submit to medical examination.

Section 23. Should any disability beneficiary under age sixty (60) refuse to submit to medical examination, his pension may be discontinued until his withdrawal of such refusal, and should such refusal continue for one year his retirement allowance may be cancelled.

Payment in case of cancellation of disability allowance.

Section 24. Should the retirement allowance of any disability beneficiary be cancelled for any cause other than reentrance into the state service, he shall be paid an amount which is the actuarial equivalent of his annuity at that time, based on a disabled life, but said amount shall not exceed the amount of his accumulated contributions as such amount stood at the time of his retirement for disability.

OPTIONAL MODIFICATION OF RETIREMENT ALLOWANCE

Optional modification of retirement allowance.

Section 25. Until the first payment on account of any retirement allowance is made, and subject to the conditions that, if he die after retirement and within thirty (30) days from the date upon which his election or changed election is received at the office of the retirement system in Helena, then said election is void and of no effect, and the death shall be considered as that of a member before retirement. A member of a beneficiary may elect, or revoke or change a

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previous election prior to the approval of the previous election, to receive the actuarial equivalent of his retirement allowance as of the date of retirement, in a lesser retirement allowance, payable throughout life with one of the following options.

(a) Option 1. If he dies before he receives in annuity payments provided for in section 20 of this act, the amount of his accumulated contributions as it stood at his retirement, the balance of such accumulated contributions shall be paid to his estate or to such person, having an insurable interest in his life, as he shall nominate by written designation duly executed and filed with the board of administration.

Payment of balance of accumulated contributions to estate or nominee of member.

(b) Option 2. Upon his death, his lesser retirement allowance shall be continued throughout the life of and paid to such person, having an insurable interest in his life, as he nominates by written designation duly executed and filed with the board of administration at the time of his retirement.

Payment of allowances during life, then to nominee.

(c) Option 3. Upon his death, one-half of his lesser retirement allowance shall be continued throughout the life of and paid to such person, having an insurable interest in his life, as he nominates by written designation duly executed and filed with the board of administration at the time of his retirement.

Payment of one-half of allowance during life, then to nominee.

(d) Option 4. Such other benefit or benefits shall be paid, either to the beneficiary or to such other person or persons as he nominates, as, together with such lesser retirement allowance, are the actuarial equivalent of his retirement allowance, and shall be approved by the board of administration.

Payment of benefits to beneficiary or nominee.

DEATH BENEFIT

Section 26. Upon the death before retirement of a member while in the state service, or within four (4) months after the discontinuance of state service, or while physically or mentally incapacitated for the performance of his duty, if such incapacity has been continuous from the discontinuance of state service, the retirement system shall be liable for a death benefit, which if there is a surviving wife or surviving children under eighteen (18) years of age, shall be paid in monthly installments and to the surviving wife and children as presented therein; otherwise such death benefit shall be paid to his estate, or to such person having

Death benefit.

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an insurable interest in his life as he has nominated by written designated duly executed and filed with the retirement board. Such death benefit shall consist of:

Accumulated contributions.

(a) His accumulated contributions, and in addition thereto,

An amount based upon annual compensation and length of employment.

(b) An amount, provided from contributions by the state, or by a contracting city, which shall be equal to one-twelfth (1/12) of the annual compensation earnable by the deceased during the twelve (12) months immediately preceding his death, multiplied by the number of completed years of service under the system, but not to exceed fifty (50) per centum of such compensation.

(c) A member, or a beneficiary after death of a member, may elect, by written designation, duly executed and filed with the board of administration to have the death benefit provided in clauses (a) and (b) paid in monthly installments, fixed in number or amount, all subject to such rules and regulations as the board may adopt. Regular interest shall be credited on the unpaid balance of such benefit, at rates then in use under the system as adopted by the board from time to time.

Election to have benefit paid in monthly installments.

(d) In the absence of an application to the industrial accident board, filed by a proper party, the board shall proceed with the payment of benefits payable under the retirement system when death does not result from injury or disease arising out of and in the course of their employment. If the industrial accident board determines on the basis of such an application subsequently filed, that death resulted from injury or disease arising out of and in the course of employment, an amount equal to the portion of said benefits which were provided by contributions of the state, shall be deducted from the benefits payable under the retirement system because of such determination.

In case of death from injury or disease arising out of and in course of employment.

Nomination of a beneficiary.

Section 27. (a) The nomination by a member of a beneficiary under the retirement system may be revoked at the pleasure of the member or beneficiary making the nomination and a different beneficiary nominated by a written instrument duly executed and filed with the board. If no beneficiary shall be nominated or if the estate shall be the beneficiary, and if said estate would not be probated, if no amount were due from the retirement system, all of the said amount due, including retirement allowances accrued but not received prior to death, shall be paid directly without

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probate to the surviving next of kin of the deceased, or the guardians of said survivor's estates, share and share alike, payment to be made in the same order in which the following groups are listed:

Payment to next of kin, without probate.

1. Husband or wife, or
2. Children, or
3. Father and mother, or
4. Grandchildren, or
5. Brothers and sisters, or
6. Nieces and nephews.

(b) No payment shall be made to persons included in any of said groups if at the date of payment there be living persons in any of the groups preceding it, as listed, and payment to the persons in any group, upon receipt from said persons of an affidavit upon a form supplied by the retirement board, that there are no living individuals in the groups preceding it and that the estate of the deceased will not be probated, shall be in full and complete discharge and acquittance of the board and system on account of said death. If any person entitled to a benefit from the system shall be a minor who has no guardian of his estate, said benefit not to exceed five hundred dollars ($500.00) may be paid to the person entitled to the custody of a minor to hold for the minor, upon the written statement, duly acknowledged and verified, of such person that the total estate of the minor does not exceed one thousand dollars ($1,000.00) in value, and such payment shall be full and complete discharge and acquittance of the board and system. Such persons shall account to the minor for the money when the minor reaches the age of majority.

Affidavit required.

In case a minor entitled to benefit.

(c) The retirement board, in the event that the whereabouts of the nominated beneficiary can not be determined, or in the event that the beneficiary be the estate of the deceased person, or if no beneficiary be nominated, may pay to the undertaker who conducted the funeral, or to any person or organization who has paid said undertaker from said person's or organization's own funds, in its discretion all or a portion of any amount payable under the retirement system, but not to exceed the funeral expenses of such deceased person or the portion of such expenses paid by said person or organization as evidenced by the sworn itemized statement of the undertaker and by such other documents as the board may require. Said payment shall be full and com-

Funeral expenses, when board may pay.

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plete discharge and acquittance of the board and system up to the amount so paid, anything in this act to the contrary notwithstanding.

Payment of amount due on effective date hereof, because of death.

(d) Any amount due from the retirement system on the effective date hereof, because of death, may be paid in accordance with the provisions of this section, but only persons living on said effective date shall receive any part of said amount due.

RETIREMENT BENEFITS NOT MODIFIED BY COMPENSATION INSURANCE—SUBROGATION PROVIDED FOR

Section 28. (a) If an injury, known to result in the retirement of and/or the death of a member of the retirement system is the proximate consequence of the act of a person other than his employer, the board shall have the right to recover from said person, on behalf of the retirement system, an amount which shall be the actuarial equivalent of the benefits which are provided by contributions of the state and for which the retirement system shall be liable because of said injury and/or death. The board of administration may do any and all things necessary to recover on behalf of the retirement system any and all amounts which the board might recover from employees, or from third persons under any provisions of this act, any other provisions of law of the State of Montana, including any provision by which an insurer might recover by subrogation, or otherwise, including the right to commence and prosecute actions, to file liens, to intervene in court proceedings, or to compromise claims before or after commencement of suit, except that any claim in favor of the retirement system against such third person, may be compromised only in such amount as may be approved by a person duly authorized by the board for such purpose. The agreed cost of such service and the expense incidental thereto is a proper charge against the fund out of which the compensation of an injured state employee is paid; and such cost and expense shall be reimbursed to the retirement system by the contracting city by which an injured member is employed.

Board's right to recover from person causing injury resulting in retirement of a member.

Amount recovered, disposition of.

(b) Any amount recovered by way of subrogation by the employer, workmen's compensation insurer or retirement system shall be applied first to the amounts which the employer or its insurer shall have paid or become obligated

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to pay, and second, on the amounts which the retirement system shall have paid or become obligated to pay.

Amounts to be paid by retirement system.

(c) Amounts by which retirement and death allowances are reduced under the provisions of section 27 and net amounts recovered from third persons under the provisions of this section, shall be paid by the retirement system to the fund out of which the compensation of the injured member is paid, or to the contracting city which pays the compensation of the injured member as the case may be.

MONTHLY PAYMENT OF ALLOWANCE

Monthly payment of allowance.

Section 29. A pension, an annuity or retirement allowance granted under the provisions of this act shall be payable in equal monthly installments but a smaller pro rata amount may be paid for part of a month when the pension, annuity or retirement allowance begins after the first day of the month or ends before the last day of the month.

RETIREMENT FUND EXEMPT FROM EXECUTION, GARNISHMENT, ATTACHMENT, OR ASSIGNMENT

Retirement fund benefits exempt from execution, garnishment, attachment or assignment.

Section 30. The right of a person to a pension, an annuity or a retirement allowance to the return of contributions, the pension annuity or retirement allowance itself, any optional benefit, any other right accrued or accruing to any person under the provision of this act and the moneys in the fund created under this act shall not be subject to execution, garnishment, attachment, or any other process whatsoever, and shall be unassignable except as in this act specifically provided.

RIGHT TO RETIREMENT ALLOWANCE GUARANTEED

Right to retirement allowance guaranteed.

Section 31. After a member has qualified as to service and disability for retirement for disability, or as to age and service, for retirement for service, nothing shall deprive him of the right to a retirement allowance as determined under this act. Such retirement allowance and qualification therefor, shall be subject otherwise to the provision of this act.

ESTIMATE OF AGE AND SERVICE

Section 32. If it shall be impracticable for the board of administration to determine from the records the length of

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Board may estimate age and service of member.

service, the compensation or the age of any members, or if any member refuses or fails to give the board a statement of his state service, his compensation or his age, the said board may estimate, for the purposes of this act, such length of service, compensation or age.

RETIRED MEMBERS NOT ELIGIBLE FOR PAY FROM STATE, COUNTIES OR CITIES OR PUBLIC AGENCIES

Person receiving retirement allowance not eligible for pay from state or city.

Section 33. No person who has been retired for service or disability and who receives a retirement allowance under the retirement system shall be paid for any service rendered by him to the state or to a contracting city after the date of his retirement.

Severability of act.

Section 34. If any section, subsection, sentence, clause or phrase of this act is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Allocation of money to public employees retirement fund.

Section 35. (a) From and after the effective date of this act, and during the biennium for which appropriations of money are made by this legislative assembly, there shall be paid monthly, into the public employees retirement fund out of the moneys hereby appropriated from the state general fund, a sum equal to 3 per cent of the total compensation paid members of the retirement system. In computing the amount of compensation upon which said 3 per cent shall be reckoned, there shall be included a sum equal to the amount of compensation which would have been paid to members of the system who elect to continue and do continue their contributions to the system and who are absent with the armed forces of the United States, so long as such absence shall be continued.

Disbursement procedure.

(b) The board of administration shall certify to the state auditor at the end of each month the total amount of compensation paid members of the retirement system, including that which would have been paid to members who are absent in the armed forces of the United States. The state auditor shall thereupon draw a warrant upon the state treasurer for said 3 per cent of compensation contributed by

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the state. Said warrant shall be drawn on the general fund of the state to the credit of the public employees retirement fund and the state treasurer shall deposit the amount thereof in said retirement fund.

Contributions under this section, how applied.

(c) Contributions made to the retirement system under this section shall be applied by the board of administration to meet the state's obligations under the system in such order and amount as said board shall determine; provided, however, that said contributions shall be first applied to the liability accruing because of state service rendered during such year and on account of pensions provided for in section 20 of the act, such amounts to be determined by actuarial valuation as computed by the actuary of the said board.

$416.66 MAXIMUM SALARY CONSIDERED

Maximum salary considered.

Section 36. For the purpose of computing the total amounts of compensation of members under the provisions of section 35 of this act, the compensation of every member who received in excess of four hundred sixteen dollars and sixty-six cents ($416.66) per month shall be computed as four hundred sixteen dollars and sixty-six cents ($416.66) per month.

Transfer from one fund to another.

Section 37. Any fund out of which payments are made under the provisions of this act may be reimbursed to the extent of such payments by transfer of a sufficient sum for such reimbursement from another fund or funds under the control of the same disbursing officer. The disbursing officer shall certify to the state auditor amount or amounts to be thus transferred, the fund or funds from and to which the transfer is to be made, and the auditor shall thereupon make the transfer as directed in the certificate.

Appropriation for administrative expense.

Section 38. Out of any money in the state treasury not otherwise appropriated there is hereby appropriated the sum of $35,000.00 for the purpose of defraying the administrative expense of the act, including the salary of the secretary and other employees and the necessary expenses of the board of administration. The above appropriation is for the coming biennium only. Thereafter, it shall be the duty of each and every state board, commission, department and institution whose employees are subject to the retirement system created by this act to include in their budget and request for legislative appropriations, an amount neces-

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sary to defray the state's part of the costs of this act for employees in their respective departments, and the end that the legislature may make definite appropriation for the cost incurred by each board, department or institution whose employees are within the retirement system created by this act.

Budget act not applicable.

Section 39. This act shall be valid and effective despite any provisions in the state budget act to the contrary.

Name of act.

Section 40. This act may be cited as the public employees' retirement act.

ADJUSTMENTS AUTHORIZED

Adjustments of payment authorized.

Section 41. If more or less than the correct amount of contribution required by this act of members, the state, or contracting city, is or has been paid, proper adjustment shall be made in connection with the subsequent payments, or such adjustments may be made by direct cash payments between the member, state or contracting city, in connection with whom the error was made, and the board of administration; adjustments to correct any other errors in payments to or by the board of administration may be made in the same manner.

Repealing clause.

Section 42. All acts and parts of acts in conflict herewith are hereby repealed.

Effective date.

Section 43. This act shall be in full force and effect from and after its passage and approval.

Approved March 16, 1945.

CHAPTER 213

An Act to Amend Section 2916 of the Revised Codes of Montana, 1935, As Amended by Chapter 128 of the Session Laws of 1943, Formerly Relating to Additional Compensation in Case Death Occurs While Employee Is Drawing or Entitled to Draw Compensation Payment, But, by the Amendment, Now Relating to Payment of Burial Expense and Providing That Payment Therefor Is not a Part of the Compensation; and to Amend Section 2917 of the Revised Codes of Montana, 1935, As Amended by Chapter 229 of the Session Laws of 1943, Relating to Furnishing Medical and Hospital Services and Such

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Other Treatment As Approved by the Board, in Addition to Compensation; and to Amend Section 2918 of the Revised Codes of Montana, 1935, Relating to When Payment of Compensation Shall Commence; and to Amend Section 2919 of the Revised Codes of Montana, 1935, Relating to Manner of Payment of Compensation, and to Whom Paid; and to Amend Section 2920 of the Revised Codes of Montana, 1935, Relating to Compensation in Case of Specified Injuries, and Providing That the Same Shall Not Be in Lieu of Medical and Hospital Services; and to Amend Section 3006 of the Revised Codes of Montana, 1935, Relating to Application for Compensation Under Plan No. 3, and Providing That Filing of Physician's Certificate Shall Not Constitute Claim for Compensation.

Be it enacted by the Legislative Assembly of the State of Montana:

Sec. 2916, R. C. 1935, amended.

Section 1. That Section 2916, Revised Codes of Montana, as amended, by Chapter 128 of the Session Laws of 1943, be, and the same is hereby amended to read as follows:

Payment of burial expense provided for.

"Section 2916. **Providing for Payment of Burial Expense.** *There shall be paid, in case of the death of an employee, which death is the result of an accidental injury arising out of the employment and happening in the course of the employment, the reasonable burial expenses of the employee, not exceeding two hundred and fifty dollars ($250.00) and such payment is not a part of the compensation which might be paid but is a benefit in addition to and separate and apart from compensation."*

Sec. 2917, R. C. 1935, as amended, further amended.

Section 2. That Section 2917, Revised Codes of Montana of 1935, as amended by Chapter 229 of the Session Laws of 1943, be, and the same is hereby amended to read as follows:

"Section 2917. **Medical and Hospital Services and Such Other Treatment as Approved by the Board, to be Furnished.** *In addition to the compensation provided by this act and as an additional benefit separate and apart from compensation, the following shall be furnished:*

Medical and hospital services and treatments to be furnished by board.

During the first nine (9) months after the happening of the injury, the employer or insurer or the board, as the case may be, shall furnish reasonable services by a physician or surgeon, reasonable hospital services and medicines when needed, and such other treatment approved by the board,

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not exceeding in amount the sum of five hundred dollars ($500.00), unless the employee shall refuse to allow them to be furnished, and unless such employee is under hospital contract as provided in section 2907 of this act.

When contract, hospital are inadequate.

When such employee is under a hospital contract as above and when hospital or medical facilities or both are inadequate to the needs of an injured employee in a particular case such injured employee, may, anytime, be placed where adequate hospital facilities are obtainable, and the cost thereof in whole or in part shall be a legal charge against the one so contracting to furnish hospital facilities, and the amount of such charge and the necessity therefor shall be determined by the board.

And be it further provided, that where an injury arising out of and received in the course of employment necessarily results in the loss by amputation of an arm, hand, leg or foot, or the enucleation of an eye, or the loss of any of the natural teeth, the industrial accident board may, in its discretion, order that an artificial member be furnished to supply the loss of any such member or members so lost. Such artificial member shall be furnished at the expense of the employer, operating under plan one, or the insurer, operating under plan two, or the industrial accident fund where the employer is operating under plan three. The expense of furnishing any such member shall not exceed the following amounts: Hand or arm to elbow—one hundred fifty dollars ($150.00). Arm above elbow—one hundred seventy-five dollars ($175.00). Foot or leg—one hundred fifty dollars ($150.00). Eye—ten dollars ($10.00). Teeth —one hundred twenty-five dollars ($125.00). The replacement of any such artificial member so furnished shall not be required unless made necessary by a subsequent industrial accident arising out of and suffered in the course of employment."

Artificial limb or other member may be furnished.

Expense limited.

Sec. 2918, R. C. 1935, amended.

Section 3. That Section 2918, of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Compensation, from what date paid.

"2918. **Compensation from What Date Paid.** Where an injured employee has no wife, child, father, mother, brother or sister residing within the United States who would be entitled to compensation in case of his death, no compensation shall be allowed or paid during the first two weeks of any injury, except as may be required by the pro-

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visions of the preceding section, but if disability continues six weeks, compensation shall be paid from the date of injury. Where the injured employee has a beneficiary or a major or minor dependent residing within the United States who would be entitled to compensation in case of his death, no compensation shall be paid for the first week of any injury, but if disability continues three weeks, compensation shall be paid from the date of injury; *provided, that separate benefits of medical and hospital services shall be furnished from date of injury.*"

Section 4. That Section 2919 of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Sec. 2919, R. C. 1935, amended.

"2919. **Compensation to Run Consecutively—Major and Minor Dependents Not Residing in the United States —Manner of Payment.** Compensation shall run consecutively and not concurrently and payment shall not be made for two classes of disability over the same period, provided that no compensation shall be paid to a major or minor dependent who did not reside within the United States at the date of the happening of the injury. Compensation due to beneficiaries shall be paid to the surviving spouse, if any, or if none, then divided equally among or for the benefit of the children. Compensation due to major dependent where there be more than one, shall be divided equitably among them and likewise as to minor dependents, and the question of dependency and amount thereof shall be a question of fact for determination by the board."

Compensation to run consecutively.

Dependent not residing in United States.

Compensation due beneficiaries, to whom paid.

Section 5. That Section 2920, of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Sec. 2920, R. C. 1935, amended.

"2920. **Compensation in Case of Specified Injuries.** In case of the following specified injuries, the compensation in lieu of any other compensation provided by this act shall be as follows: Where the injured employee has no wife, child, father, mother, brother or sister residing within the United States who would be entitled to compensation in case of his death, fifty per centum (50%) of the wages received at the time of the injury, subject to a maximum compensation of fifteen dollars ($15.00) per week; where the injured employee has a wife, or child, or father, or mother, or brother, or sister residing within the United States who would be entitled to compensation in case of his death, fifty-

Compensation —amounts payable in case of specified injuries.

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five per centum (55%) of the wages received at the time of the injury, subject to a maximum compensation of seventeen dollars ($17.00) per week; where the injured employee has a wife and one child, or two children, or a father and mother, or two or more brothers and/or sisters residing within the United States who would be entitled to compensation in case of his death, sixty per centum (60%) of the wages received at the time of the injury, subject to a maximum compensation of eighteen dollars ($18.00) per week; where the injured employee has a wife and two children, or three children residing within the United States who would be entitled to compensation in case of his death, sixty-two and one-half per centum (62½%) of the wages received at the time of the injury, subject to a maximum compensation of nineteen dollars ($19.00) per week; where the injured employee has a wife and three children, or four children residing within the United States who would be entitled to compensation in case of his death, sixty-five per centum (65%) of the wages received at the time of the injury, subject to a maximum compensation of twenty dollars ($20.00) per week; where the injured employee has a wife and four or more children, or five or more children residing within the United States who would be entitled to compensation in case of his death, sixty-six and two-thirds per centum (66 2/3%) of the wages received at the time of the injury, subject to a maximum compensation of twenty-one dollars ($21.00) per week; subject to change, when the number of beneficiaries or dependents decreases, and subject in all cases to a minimum compensation of eight dollars ($8.00) per week, and shall be paid for the following periods:

Periods for which compensation shall be paid.

For the loss of:

One arm at or near shoulder	200 weeks
One arm at the elbow	180 weeks
One arm between wrist and elbow	160 weeks
One hand	150 weeks
One thumb and the metacarpal bone thereof	60 weeks
One thumb at the proximal joint	30 weeks
One thumb at the second distal joint	20 weeks
One first finger and the metacarpal bone thereof	30 weeks
One first finger at the proximal joint	20 weeks
One first finger at the second joint	15 weeks

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One first finger at the distal joint	10 weeks
One second finger and the metacarpal bone thereof	30 weeks
One second finger at the proximal joint	15 weeks
One second finger at the second joint	10 weeks
One second finger at the distal joint	5 weeks
One third finger and the metacarpal bone thereof	20 weeks
One third finger at the proximal joint	12 weeks
One third finger at the second joint	8 weeks
One third finger at the distal joint	4 weeks
One fourth finger and the metacarpal bone thereof	12 weeks
One fourth finger at the proximal joint	9 weeks
One fourth finger at the second joint	6 weeks
One fourth finger at the distal joint	3 weeks
One leg at or near the hip joint as to preclude the use of an artificial limb	200 weeks
One leg at or above the knee where stump remains sufficient to permit the use of an artificial limb	150 weeks
One leg between the knee and ankle	140 weeks
One foot at the ankle	125 weeks
One great toe with the metatarsal bone thereof	30 weeks
One great toe at the proximal joint	15 weeks
One great toe at the second joint	10 weeks
One toe other than the great toe with the metatarsal bone thereof	12 weeks
One toe other than the great toe at proximal joint	6 weeks
One toe other than the great toe at second or distal joint	3 weeks
One eye by enucleation	120 weeks
Total blindness of one eye	100 weeks
Total loss of hearing, one ear	20 weeks
Total loss of hearing, both ears	120 weeks

Periods for which compensation shall be paid.

The loss of both hands, or both arms, or both feet, or both legs, or both eyes, or any two thereof, in one accident, in

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Injuries constituting total and permanent disability.

the absence of conclusive proof to the contrary shall constitute total disability, permanent in character. Provided, however, that the percentage of permanent disability caused by any single accident or injury shall be so computed as to cover the permanent disability caused by that particular injury without reference to any previous physical ailment or defect or to any injury previously suffered or any permanent disability caused thereby; *provided, that no payment under this section shall be in lieu of the separate benefit of medical and hospital services.*"

Sec. 3006, R. C. 1935, amended.

Section 6. That Section 3006, of the Revised Codes of Montana, 1935, be, and the same is hereby amended to read as follows:

Application for compensation under plan No. 3.

"3006. **Application for Compensation Under Plan No. 3.** Where a workman is entitled to compensation under compensation plan No. 3, he shall file with the board his application therefor, together with the certificate of the physician who attended him, and it shall be the duty of such physician to lend all necessary assistance in making application for compensation and such proof of other matters as may be required by the rules of the board without charge to the workman; *provided, that the filing of a certificate of the attending physician shall not constitute a sworn claim for compensation.*"

Effective date.

Section 7. This act shall be in full force and effect from and after its passage and approval.

Approved March 16, 1945.

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APPROPRIATIONS, MEMORIALS AND RESOLUTIONS

ENACTED BY THE

Twenty-ninth Legislative Assembly

STATE OF MONTANA

1945

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APPROPRIATIONS, MEMORIALS AND RESOLUTIONS

HOUSE BILL NO. 1

An Act to Appropriate Money for the Payment of Mileage and Per Diem to the Members of the Twenty-ninth Legislative Assembly and for the Payment of Per Diem to the Officers and Attaches and for the Incidental Expenses of the Twenty-ninth Legislative Assembly of the State of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums, or so much thereof as may be necessary, be, and the same are hereby appropriated, out of any money in the state treasury, not otherwise appropriated, for the objects and purposes hereinafter expressed, but for no other:

For the payment of mileage and per diem to the members of the twenty-ninth legislative assembly of the State of Montana.

Ninety-five thousand dollars ..... $ 95,000.00

For the payment of per diem to the officers and attaches of the twenty-ninth legislative assembly of the State of Montana,

Forty thousand dollars ..... $ 40,000.00

For the payment of incidental expenses of the twenty-ninth legislative assembly of the State of Montana.

Twenty thousand dollars ..... $ 20,000.00

Section 2. The amounts appropriated herein are to be used for the purposes designated. However, if there is a surplus in any one item, it may be transferred to either of other two items appropriated herein for the legislative assembly; provided the aggregate amount of all three appropriations shall be neither increased or decreased.

Section 3. Appropriations hereinabove provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved January 4, 1945.

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SUBSTITUTE HOUSE BILL NO. 58

An Act Making Appropriations for the State Public School General Fund and Providing for the Manner of Distribution Thereof for the Period Beginning July 1, 1945, and Ending June 30, 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That there is hereby appropriated from the state treasury for the state public school general fund to be distributed in accordance with Chapter 112, Revised Codes of Montana 1935, and any amendatory acts thereto, for the period beginning July 1, 1945, and ending June 30, 1946, the following amount:

FROM THE GENERAL FUND

Nine hundred fifty thousand dollars $950,000.00

Section 2. That there is hereby appropriated from the state treasury for the state public school general fund to be distributed in accordance with Chapter 112, Revised Codes of Montana 1935, and any amendatory acts thereto, for the period beginning July 1, 1946, and ending June 30, 1947, the following amount:

FROM THE GENERAL FUND

Nine hundred fifty thousand dollars $950,000.00

Section 3. The appropriations hereinbefore provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Approved March 1, 1945.

HOUSE BILL NO. 71

An Act to Appropriate Money from the Common School Equalization Fund of the State for the Purpose of Putting Into Effect Chapter 49 Session Laws of 1941.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is hereby appropriated from the common school equalization fund of the state the sum of eight thousand ($8,000.00) dollars for the period beginning July 1, 1945, and ending June 30, 1946, and eight thousand ($8,000.00) dollars for the period beginning July 1, 1946, and ending June 30, 1947, to carry out the purposes set forth in Chapter 49 Session Laws of 1941.

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Section 2. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 16, 1945.

HOUSE BILL NO. 99

An Act to Appropriate Money for the Montana State Library Extension Commission for the Purchase of Books for Rural Libraries and for the Salaries and Traveling Expenses of a Secretary of the State Library Extension Commission and a Library Assistant Engaged in Organizing Rural Libraries and Selecting Books Therefor, and for the Necessary Library Supplies and Equipment for the Period Beginning July 1, 1945 and Ending June 30, 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums or so much thereof as may be necessary, be, and the same are hereby appropriated out of any money in the state treasury, not otherwise appropriated, for the objects and purposes hereinafter expressed, for the period beginning July 1, 1945, and ending June 30, 1946, for Montana state library extension commission.

For the purchase of books, periodicals and for binding for the use of rural libraries	$ 4,000.00
For traveling expenses of a secretary in organizing rural libraries and the actual expenses of the commission as provided by law	1,000.00
For supplies	500.00
For equipment	600.00
For salaries:	
Secretary	2,400.00
Library assistant	1,500.00
Total	$ 10,000.00

Section 2. That the following sums or so much thereof as may be necessary, be, and the same are hereby appropriated out of any money in the state treasury, not otherwise appropriated, for the objects and purposes hereinafter expressed, for the period beginning July 1, 1946 and ending June 30, 1947, for Montana state library extension commission.

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For the purchase of books, periodicals and for binding for the use of rural libraries	$ 4,300.00
For traveling expenses of a secretary in organizing rural libraries, and the actual expenses of the commission as provided by law	600.00
For supplies	1,000.00
For equipment	200.00
For salaries:	
Secretary	2,400.00
Library assistant	1,500.00
Total	$ 10,000.00

Section 3. The appropriations hereinabove provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 4. All acts or parts of acts in conflict herewith are hereby repealed.

Approved February 25, 1945.

HOUSE BILL NO. 106

An Act to Appropriate Twenty-five Thousand ($25,000.00) Dollars for Each Fiscal Year to Aid in the Continuation of the Cooperative Work Now Being Carried On By the Montana Livestock Commission and the United States Department of the Interior, Fish and Wildlife Service, in the Control of Predatory Animals in the State of Montana and Said Funds to Be Subject to the Order of the Livestock Commission of the State of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of twenty-five thousand ($25,000.00) dollars for each fiscal year, be and the same is hereby appropriated out of the general funds in the state treasury, such money to be used and expended by the state livestock commission in cooperation with the United States fish and wildlife service in continuing the work now being carried out in the destruction of predatory animals which are injurious to wild game, poultry, livestock and the public health in the State of Montana; provided, that the state livestock commission, in cooperation with the United States fish and wildlife service, is authorized also to

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enter into cooperative agreements with other governmental agencies, counties and associations when such cooperation is deemed to be necessary to promote the control and destruction of predatory animals.

Section 2. That the amount of money hereby appropriated shall be subject to the order of the state livestock commission of the State of Montana only and shall be used for the expenditures of hunters' salaries and expenses, expenditures for equipment, materials and supplies, and no other.

Section 3. That all furs, skins and specimens taken by hunters employed from this fund shall be disposed of by order of the Montana livestock commission and said funds received from the sale of said furs, skins and specimens shall be expended as provided in section 2 of this act.

Section 4. All acts and parts of acts in conflict herewith are hereby repealed.

Approved February 15, 1945.

HOUSE BILL NO. 108

An Act to Appropriate Money for the Operation, Maintenance and Other Purposes As Designated Herein, for Certain State Departments and Offices for the Period Beginning July 1, 1945, and Ending June 30, 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purpose of this act, unless otherwise required by the context:

(1) The term "salaries" means the compensation paid in consideration of services rendered to all regularly elected or appointed officers or employees whose duties are of a continuous nature. It does not mean wages or compensation paid in consideration of services rendered to temporary employees and for persons appointed or hired for a period of less than one (1) month, the payment of which is hereby made a proper charge from funds appropriated for "operation".

(2) The term "capital", unless otherwise designated or defined, means all articles, fixtures and goods of a permanent nature, but, in no event, shall the term "capital" mean buildings or purchase of lands, unless specifically defined herein. Store supplies shall have the same limitations.

(3) The term "repairs" means the amount to be paid for the repair of any capital asset, including buildings or lands.

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(4) The term "replacements" means the amount to be paid for the replacing of any capital asset, as defined in paragraph (2) above, by the purchase of a new one to take its place by reason of the original being worn out or broken.

(5) The term "operation" means all other expenditures which are necessary for the operation of the department, board, bureau, commission or institution to which the appropriation applies, including wages of employees paid to temporary employees for work not considered of a continuous nature.

(6) The term "salaries and expenses" means any expenses, including salaries, capital, repairs and replacements and operation, as defined above.

(7) The term "expense" means any expense defined above, with the exception of salaries.

(8) The appropriations contained in this act are intended to provide only necessary expenditures for the year for which the appropriation is provided. All claims for such expenditures must be presented for payment not later than thirty (30) days after the close of the fiscal year. Supplies purchased for a succeeding year are in violation of this act. In cases of necessity, appropriations may be used for either year, provided, however, that any unexpended balances at the end of the second year shall revert to the funds from which they were appropriated.

(9) When reference is made herein to any chapter or section of the laws of Montana, said reference shall include any and all laws amendatory thereto.

Section 2. That the following sums or so much thereof as may be found necessary be and the same are hereby appropriated out of any moneys in the state treasury, and from special funds enumerated herein not otherwise appropriated for the objects and purposes hereinafter expressed, for the period beginning July 1, 1945 and ending June 30, 1946.

GOVERNOR'S OFFICE

FROM THE GENERAL FUND

For salaries, sixteen thousand one hundred dollars .....$ 16,100.00

For capital, repairs and replacements, one hundred seventy-five dollars .....$ 175.00

For operation, sixteen hundred fifty-five dollars .....$ 1,655.00

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For travel and other incidental expenses, two thousand dollars ..... $ 2,000.00

For special investigations, five hundred dollars ..... $ 500.00

For requisitions, twenty-five hundred dollars ..... $ 2,500.00

GOVERNOR'S MANSION OR HOME

FROM THE GENERAL FUND

For salaries and expenses and other incidental expenses, four thousand one hundred seventy dollars ..... $ 4,170.00

SECRETARY OF STATE

FROM THE GENERAL FUND

For salaries, sixteen thousand seven hundred forty dollars ..... $ 16,740.00

For capital, repairs and replacements, three hundred ten dollars ..... $ 310.00

For operation, twenty-one hundred five dollars ..... $ 2,105.00

For salaries and expenses necessary for the conduct of elections, publishing constitutional amendments, initiative and referendum measures, printing and binding election laws, three thousand three hundred dollars ..... $ 3,300.00

ATTORNEY GENERAL

FROM THE GENERAL FUND

For salaries, twenty-eight thousand five hundred dollars $ 28,500.00

For capital, repairs and replacements, eight hundred ten dollars ..... $ 810.00

For operation, five thousand six hundred twenty-five dollars ..... $ 5,625.00

STATE TREASURER

FROM THE GENERAL FUND

For salaries, seventeen thousand four hundred dollars .... $ 17,400.00

For capital, repairs and replacements, three thousand six hundred thirty dollars ..... $ 3,630.00

For operation, twenty-six hundred five dollars ..... $ 2,605.00

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STATE AUDITOR

AUDITOR'S DIVISION

FROM THE GENERAL FUND

For salaries, sixteen thousand eight hundred dollars .....$ 16,800.00

For capital, repairs and replacements, eleven hundred seventy-five dollars .....$ 1,175.00

For operation, fifteen hundred eighty dollars .....$ 1,580.00

FROM THE HIGHWAY FUND

For salaries, thirty-five hundred dollars .....$ 3,500.00

For operation and expenses, fifteen hundred dollars .....$ 1,500.00

INSURANCE DEPARTMENT

FROM THE GENERAL FUND

For salaries, nineteen thousand dollars .....$ 19,000.00

For capital, repairs and replacements, three hundred twenty-five dollars .....$ 325.00

For operation, thirty-nine hundred sixty dollars .....$ 3,960.00

INVESTMENT COMMISSIONER

FROM THE GENERAL FUND

For salaries, forty-eight hundred dollars .....$ 4,800.00

For operation, five hundred fifty-five dollars .....$ 555.00

FIRE MARSHAL DIVISION

FROM THE GENERAL FUND

For salaries and expenses, eighty-nine hundred twenty dollars .....$ 8,920.00

FROM THE FIREMEN'S DISABILITY FUND

For the payment of the distribution of the firemen's disability fund, as provided in Section 5127 of the Revised Codes of Montana 1935, an appropriation sufficient to meet the requirements as provided by law.

SUPERINTENDENT OF PUBLIC INSTRUCTION

FROM THE GENERAL FUND

For salaries, thirteen thousand four hundred forty dollars .....$ 13,440.00

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For capital, repairs and replacements, six hundred thirty-five dollars ..... $ 635.00

For operation, six thousand two hundred five dollars ..... $ 6,205.00

SCHOOL SUPERVISORS

FROM THE GENERAL FUND

For salaries, eight thousand two hundred fifty dollars .... $ 8,250.00

For travel, eighteen hundred dollars ..... $ 1,800.00

SUPERVISED CORRESPONDENCE SCHOOL

FROM THE GENERAL FUND

For salaries and expenses, twenty-two hundred dollars .... $ 2,200.00

FROM THE COMMON SCHOOL EQUALIZATION FUND

For salaries and expenses, twenty-three thousand seven hundred dollars ..... $ 23,700.00

CERTIFICATION DEPARTMENT

FROM THE TEACHERS' CERTIFICATE FUND

As much as may be necessary to pay all lawful claims, as provided by law.

SUPREME COURT

FROM THE GENERAL FUND

For salaries, fifty-seven thousand one hundred seventy-five dollars ..... $ 57,175.00

For capital, repairs and replacements, nine hundred ninety dollars ..... $ 990.00

For operation, sixty-five hundred and five dollars ..... $ 6,505.00

ATTORNEYS' LICENSING BOARD

FROM ATTORNEYS' LICENSING FUND

As much as may be necessary to pay all lawful claims, as provided by law.

RAILROAD COMMISSION

FROM THE GENERAL FUND

For salaries, fifty-eight thousand dollars ..... $ 58,000.00

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For capital, repairs and replacements, six hundred dollars ..... $ 600.00

For operation, twenty-one thousand dollars ..... $ 21,000.00

Section 3. That the following sums or so much thereof as may be found necessary be and the same are hereby appropriated out of any moneys in the state treasury, and from special funds enumerated herein not otherwise appropriated for the objects and purposes hereinafter expressed, for the period beginning July 1, 1946 and ending June 30, 1947.

GOVERNOR'S OFFICE

FROM THE GENERAL FUND

For salaries, sixteen thousand one hundred dollars ..... $ 16,100.00

For capital, repairs and replacements, one hundred seventy-five dollars ..... $ 175.00

For operation, eleven hundred sixty-five dollars ..... $ 1,165.00

For travel and other incidental expenses, two thousand dollars ..... $ 2,000.00

For special investigations, two hundred fifty dollars ..... $ 250.00

For requisitions, fifteen hundred dollars ..... $ 1,500.00

GOVERNOR'S MANSION OR HOME

FROM THE GENERAL FUND

For salaries and expenses and other incidentals, four thousand one hundred seventy dollars ..... $ 4,170.00

SECRETARY OF STATE

FROM THE GENERAL FUND

For salaries, sixteen thousand seven hundred forty dollars ..... $ 16,740.00

For capital, repairs and replacements, three hundred dollars ..... $ 300.00

For operation, eighteen hundred five dollars ..... $ 1,805.00

For salaries and expenses necessary for the conduct of elections, publishing constitutional amendments, initiative and referendum measures, printing and binding election laws, fourteen thousand nine hundred seventy-five dollars $ 14,975.00

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ATTORNEY GENERAL

FROM THE GENERAL FUND

For salaries, twenty-eight thousand five hundred dollars $ 28,500.00

For capital, repairs and replacements, one thousand ten dollars ..... $ 1,010.00

For operation, twenty-eight hundred thirty dollars ..... $ 2,830.00

STATE TREASURER

FROM THE GENERAL FUND

For salaries, seventeen thousand four hundred dollars .... $ 17,400.00

For capital, repairs and replacements, two hundred eighty dollars ..... $ 280.00

For operation, twenty-three hundred forty dollars ..... $ 2,340.00

STATE AUDITOR

AUDITOR'S DIVISION

FROM THE GENERAL FUND

For salaries, sixteen thousand eight hundred dollars ..... $ 16,800.00

For capital, repairs and replacements, six hundred dollars ..... $ 600.00

For operation, three thousand five dollars ..... $ 3,005.00

FROM THE HIGHWAY FUND

For salaries, thirty-five hundred dollars ..... $ 3,500.00

For operation and expenses, fifteen hundred dollars ..... $ 1,500.00

INSURANCE DEPARTMENT

FROM THE GENERAL FUND

For salaries, nineteen thousand dollars ..... $ 19,000.00

For capital, repairs and replacements, two hundred dollars ..... $ 200.00

For operation, four thousand thirty dollars ..... $ 4,030.00

INVESTMENT COMMISSIONER

FROM THE GENERAL FUND

For salaries, forty-eight hundred dollars ..... $ 4,800.00

For operation, five hundred fifty-five dollars ..... $ 555.00

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FIRE MARSHAL DIVISION

FROM THE GENERAL FUND

For salaries and expenses, ninety-seven hundred seventy dollars ..... $ 9,770.00

FROM THE FIREMEN'S DISABILITY FUND

For the payment of the distribution of the firemen's disability fund, as provided in Section 5127 of the Revised Codes of Montana 1935, an appropriation sufficient to meet the requirements as provided by law.

SUPERINTENDENT OF PUBLIC INSTRUCTION

FROM THE GENERAL FUND

For salaries, thirteen thousand four hundred forty dollars ..... $ 13,440.00

For capital, repairs and replacements, five hundred ten dollars ..... $ 510.00

For operation, sixty-two hundred eighty dollars ..... $ 6,280.00

SCHOOL SUPERVISORS

FROM THE GENERAL FUND

For salaries, eighty-two hundred fifty dollars ..... $ 8,250.00

For travel, eighteen hundred dollars ..... $ 1,800.00

SUPERVISED CORRESPONDENCE SCHOOL

FROM THE GENERAL FUND

For salaries and expenses, twenty-two hundred dollars .... $ 2,200.00

FROM EQUALIZATION FUND

For salaries and expenses, twenty-three thousand seven hundred dollars ..... $ 23,700.00

CERTIFICATION DEPARTMENT

FROM THE TEACHERS' CERTIFICATE FUND

As much as may be necessary to pay all lawful claims, as provided by law.

SUPREME COURT

FROM THE GENERAL FUND

For salaries, fifty-seven thousand one hundred seventy-five dollars ..... $ 57,175.00

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For capital, repairs and replacements, nine hundred ninety dollars ..... $ 990.00

For operation, thirty-seven hundred five dollars ..... $ 3,705.00

ATTORNEYS' LICENSING BOARD

FROM ATTORNEYS' LICENSING FUND

As much as may be necessary to pay all lawful claims, as provided by law.

RAILROAD COMMISSION

FROM THE GENERAL FUND

For salaries, fifty-eight thousand dollars ..... $ 58,000.00

For capital, repairs and replacements, six hundred dollars ..... $ 600.00

For operation, twenty-one thousand dollars ..... $ 21,000.00

Section 4. It is further provided that in the appropriations for the state treasurer, contained herein, no provision is made for the printing of the state treasurer's quarterly report.

Section 5. It is further provided that all appropriations contained herein shall be used for the purposes designated and no other, and wherein appropriations are made for subdivisions, the appropriations given are not interchangeable between divisions, and the definitions given in section 1 of the act shall govern all appropriations.

Section 6. Appropriations contained herein shall not be used for travel to conventions, teachers' meetings, association meetings or gatherings of like character, wherein the said meetings are held outside of the State of Montana except by special permission of the state board of examiners who may deem it necessary for attendance on such meetings. The state board of examiners shall spread on their minutes the reasons for their permission.

Approved March 1, 1945.

HOUSE BILL NO. 136

An Act to Appropriate Funds for the Repayment of Contributions for the Payment of Certain Bills of the Montana Training School At Boulder for April, May and June of 1943 After All Appropriated Funds Had Been Exhausted.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sum, or so much thereof as may be necessary, be, and the same is hereby appropriated out of any money in the state treasury, not otherwise appropriated, for the purpose of repayment of contributions for certain bills of the Montana training school at Boulder during April, May and June of 1943 after all appropriated funds had been exhausted.

FROM THE GENERAL FUND

J. E. Henry, trustee, five thousand two hundred ninety-one dollars and twenty-six cents ..... $ 5,291.26

Section 2. Appropriation hereinabove provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 19, 1945.

HOUSE BILL NO. 137

An Act to Appropriate Money for the Purpose of Repayment of An Inheritance Tax Erroneously Collected.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sum, or so much thereof as may be necessary be and the same is hereby appropriated out of any money in the state treasury, not otherwise appropriated, for the purpose of repayment of inheritance taxes erroneously collected.

FROM THE GENERAL FUND

For the claim of Myra Woodson, seventy-two dollars and ninety-six cents ($72.96).

Section 2. The appropriation herein above provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 14, 1945.

HOUSE BILL NO. 138

An Act to Appropriate Moneys from the Highway Fund for the Pur-

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pose of Paying Claims Incurred for the Highway Debenture Bond Election of 1943.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums or so much thereof as may be necessary, be, and the same are hereby appropriated out of any money in the highway fund, not otherwise appropriated, for the purpose of paying claims incurred for the highway debenture bond election of 1943.

FROM THE HIGHWAY FUND

For the purpose of paying claims incurred for the highway debenture bond election of 1943, twenty-one thousand three hundred eighteen dollars and sixty-three cents .....$ 21,318.63

More particularly itemized as follows:

Treasurer of Big Horn county	$ 367.89
Treasurer of Blaine county	231.70
Treasurer of Broadwater county	173.91
Treasurer of Carbon county	471.23
Treasurer of Carter county	162.76
Treasurer of Cascade county	961.79
Treasurer of Chouteau county	289.43
Treasurer of Custer county	248.06
Treasurer of Daniels county	386.19
Treasurer of Dawson county	545.76
Treasurer of Deer Lodge county	286.61
Treasurer of Fallon county	133.45
Treasurer of Fergus county	554.16
Treasurer of Flathead county	1,288.17
Treasurer of Gallatin county	471.68
Treasurer of Garfield county	350.16
Treasurer of Glacier county	378.22
Treasurer of Granite county	261.44
Treasurer of Hill county	202.34
Treasurer of Judith Basin county	248.09
Treasurer of Lake county	591.65
Treasurer of Lewis and Clark county	1,108.58
Treasurer of Madison county	282.47
Treasurer of McCone county	477.68
Treasurer of Meagher county	126.97

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Treasurer of Missoula county	1,102.63
Treasurer of Mineral county	107.54
Treasurer of Park county	507.46
Treasurer of Petroleum county	116.51
Treasurer of Phillips county	284.05
Treasurer of Pondera county	187.50
Treasurer of Powder River county	104.74
Treasurer of Powell county	423.85
Treasurer of Prairie county	88.46
Treasurer of Ravalli county	554.44
Treasurer of Richland county	808.71
Treasurer of Rosebud county	152.70
Treasurer of Roosevelt county	535.54
Treasurer of Sanders county	429.08
Treasurer of Sheridan county	218.15
Treasurer of Silver Bow county	1,411.62
Treasurer of Stillwater county	239.55
Treasurer of Sweet Grass county	139.22
Treasurer of Teton county	335.09
Treasurer of Toole county	424.49
Treasurer of Valley county	658.68
Treasurer of Wheatland county	354.20
Treasurer of Wibaux county	139.21
Treasurer of Yellowstone county	1,394.82
Treasurer of Golden Valley county	204.74
Treasurer of Musselshell county	257.46
Treasurer of Liberty county	153.57

Section 2. Appropriations hereinabove provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 26, 1945.

HOUSE BILL NO. 139

An Act to Appropriate Money for the Purpose of Repayment of Overpayment of Corporation License Taxes Paid to the State of Montana

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and Authorizing the Repayment of Same from the General Fund of the State.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums, or so much thereof as may be necessary be and the same are hereby appropriated out of any money in the state treasury, not otherwise appropriated, for the purpose of repayment of over-payment of corporation license taxes paid to the State of Montana.

FROM THE GENERAL FUND

For the repayment of corporation license taxes, five thousand one hundred thirty-six dollars and eighty-eight cents	$	5,136.88

More particularly itemized as follows:

Bozeman Canning Company	$	1,031.99
International Business Machines Corporation	$	17.00
Columbia Pictures Corporation	$	92.59
State Farm Mutual Automobile Insurance Co.	$	1,476.43
Leon Farmers' Union Credit Union Association	$	15.00
Sioux Pass Farmers' Exchange Co.	$	18.61
Big Horn Construction Company	$	2,485.26

Section 2. Appropriations herein provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 14, 1945.

HOUSE BILL NO. 150

An Act to Appropriate Moneys from the State Highway Fund for the Purpose of Paying Deficiency Claims Incurred for Advertising in Connection With the State Highway Debenture Bond Election of 1943.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums or so much thereof as may be necessary be and the same are hereby appropriated out of any money in the state highway fund, not otherwise appropriated, for the purpose

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of paying deficiency claims incurred for advertising in connection with the state highway debenture bond election of 1943.

FROM THE HIGHWAY FUND

For the purpose of paying deficiency claims incurred for advertising in connection with the state highway debenture bond election of 1943, one thousand one hundred eighty-eight dollars $1,188.00

More particularly itemized as follows:

The Big Timber Pioneer	$ 22.00
The Boulder Monitor	$ 22.00
The Bozeman Courier	$ 22.00
The Choteau Acantha	$ 22.00
The Carbon County News	$ 22.00
The Circle Banner	$ 22.00
The Dillon Examiner	$ 22.00
The Dawson County Review	$ 22.00
Eagle Publishing Company	$ 22.00
Eastern Montana Clarion	$ 22.00
Fergus County Argus, Inc.	$ 22.00
The Flathead Courier	$ 22.00
The Fallon County Times	$ 22.00
The Glasgow Courier	$ 22.00
The Harlowton Times	$ 22.00
The Herald News	$ 22.00
The Hysham Echo	$ 22.00
The Hardin Tribune-Herald	$ 22.00
The Journal Press, Inc.	$ 22.00
The Jordan Tribune	$ 22.00
Judith Basin County Press	$ 22.00
The Liberty County Times	$ 22.00
Laurel Outlook	$ 22.00
The Leader Company	$ 22.00
Meagher County News	$ 22.00
The Montana Record Publishing Company	$ 22.00
Missoula County Times	$ 22.00
The Madison County Forum	$ 22.00
The Mineral Independent	$ 22.00

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Montana Labor News	$	22.00
The Plentywood Herald	$	22.00
The Park County News	$	22.00
Powder River County Examiner	$	22.00
Pondera County News	$	22.00
Phillips County Publishing Company	$	22.00
The Roundup Record-Tribune	$	22.00
Ravalli Republican	$	22.00
River Press Publishing Company	$	22.00
The Silver State Post	$	22.00
Star Printing Company	$	22.00
Standard Publishing Company	$	22.00
The Shelby Promoter	$	22.00
The Sidney Herald	$	22.00
Sanders County Independent Ledger	$	22.00
The Townsend Star	$	22.00
The Terry Tribune	$	22.00
The United Publishers, Inc.	$	22.00
The Wibaux Pioneer-Gazette	$	22.00
The Whitefish Pilot	$	22.00
The Western News	$	22.00
Winnett Times	$	22.00
The Columbus News	$	22.00
Cut Bank Pioneer Press	$	22.00
The Philipsburg Mail	$	22.00

Section 2. Appropriations hereinabove provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 25, 1945.

HOUSE BILL NO. 151

An Act to Appropriate Money from the General Fund and Special Funds Enumerated Herein, for the Operation and Maintenance of Certain Departments and Institutions for the Year Ending June 30, 1945, the Appropriations Made by the Twenty-eighth Legislative Assembly Having Been Found to Be Insufficient.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums, or so much thereof as may be necessary be and the same are hereby appropriated out of any money in the state treasury, not otherwise appropriated, and from special funds enumerated herein, for the objects and purposes expressly set forth, for the year ending June 30, 1945, it having been determined that the appropriations made by the twenty-eighth legislative assembly were insufficient.

MONTANA TRAINING SCHOOL

FROM THE GENERAL FUND

For salaries and expenses, thirty-five thousand dollars ....$ 35,000.00

STATE INDUSTRIAL SCHOOL

FROM THE GENERAL FUND

For salaries and expenses, twelve thousand dollars .....$ 12,000.00

VOCATIONAL SCHOOL FOR GIRLS

FROM THE GENERAL FUND

For salaries and expenses, one thousand seven hundred sixty dollars .....$ 1,760.00

LIVESTOCK SANITARY BOARD

FROM THE GENERAL FUND

For salaries and expenses, forty thousand dollars .....$ 40,000.00

BOARD OF HAIL INSURANCE

FROM THE HAIL INSURANCE ADMINISTRATIVE FUND

For salaries and expenses, two thousand dollars .....$ 2,000.00

Section 2. The appropriations herein provided shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved March 1, 1945.

HOUSE BILL NO. 152

An Act to Appropriate Money from the General Fund of the State of

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Montana for the Purpose of Paying Deficiency Claims in the Construction of a Building at the State School of Mines.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums, or so much thereof as may be necessary be and the same are hereby appropriated out of any money in the state treasury, not otherwise appropriated, for the purpose of paying deficiency claims in the construction of a building at the state school of mines.

FROM THE GENERAL FUND

For the payment of deficiency claims, four thousand three hundred fourteen dollars and eighty cents .....$ 4,314.80

More particularly itemized as follows:

Lovering Construction Company, two thousand eight hundred twenty-one dollars and sixty-three cents .....$ 2,821.63

Western Plumbing and Electric Company, one thousand four hundred ninety-three dollars and seventeen cents .....$ 1,493.17

Section 2. The appropriations herein provided shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 14, 1945.

HOUSE BILL NO. 175

An Act to Appropriate Funds for the Payment of Certain Deficiency Claims Arising for Obligations Incurred by the Presidential Electors.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sum or so much thereof as may be necessary be and the same is hereby appropriated out of any money in the state treasury, not otherwise appropriated, for the purpose of paying the following deficiency claims arising for obligations incurred by the presidential electors.

For obligations incurred by the presidential electors, one hundred fourteen dollars and forty cents .....$ 114.40

More particularly itemized as follows:

J. N. Nass .....$ 67.40

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Cleveland Hall	19.80
Margaret Nagle	17.20
Mrs. Sylvia C. Loble	10.00

Section 2. Appropriations hereinabove provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 14, 1945.

HOUSE BILL NO. 176

An Act to Appropriate Money Out of the Common School Permanent Fund to the State Board of Equalization for the Purpose of Distributing the Escheated Estates of John Tholin, Nels Anderson, and Charles Dutcher, Deceased, to the Respective Heirs of Said Estates As Established by the Judgments of the District Courts Distributing Said Estates.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is hereby appropriated out of any money in the common school permanent fund of the state the sum of eight thousand nine hundred eighty-seven dollars and sixty-five cents ($8,987.65), not otherwise appropriated, to the state board of equalization for the purpose of distributing the escheated estates of John Tholin, Nels Anderson, and Charles Dutcher, deceased, to the respective heirs of said estates as established by the judgments of the several district courts distributing said estates.

Section 2. In making the distribution of the funds hereby appropriated the state board of equalization shall deduct from the amount paid each such heir the amount of any inheritance tax due the State of Montana from such escheated estates.

Section 3. The appropriation hereinabove provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved February 14, 1945.

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HOUSE BILL NO. 177

An Act to Appropriate Funds for the Payment of Certain Deficiency Claims Arising for Obligations Incurred by the State Prison.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sum, or so much thereof as may be necessary, be, and the same is hereby appropriated out of any money in the state treasury, not otherwise appropriated, for the purpose of paying the following deficiency claims arising for obligations incurred by the state prison.

FROM THE GENERAL FUND

For obligations incurred by the state prison, one hundred forty-one dollars and ten cents ..... $ 141.10

More particularly itemized as follows:

Montana Leather Co. ..... $ 21.10
City of Deer Lodge Water Department ..... $ 120.00

Section 2. Appropriations hereinabove provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 14, 1945.

HOUSE BILL NO. 178

An Act to Appropriate Funds for the Payment of Certain Deficiency Claims Arising for Obligations Incurred by the State University.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sum, or so much thereof as may be necessary be and the same is hereby appropriated out of any money in the millage fund, not otherwise appropriated, for the purpose of paying the following deficiency claim arising for obligations incurred by the state university.

FROM THE MILLAGE FUND

Chicago, Burlington & Quincy R. R. Co., thirty-two dollars and twenty-four cents ..... $ 32.24

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Section 2. Appropriations hereinabove provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 14, 1945.

HOUSE BILL NO. 179

An Act to Appropriate Funds for the Payment of Certain Deficiency Claims Arising for Obligations Incurred by the Highway Patrol.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sum, or so much thereof as may be necessary be and the same is hereby appropriated out of any money in the state treasury, not otherwise appropriated, for the purpose of paying the following deficiency claims arising for obligations incurred by the Montana highway patrol.

FROM THE GENERAL FUND

For obligations incurred by the Montana highway patrol, five hundred twenty dollars and thirty-six cents ..... $ 520.36

More particularly itemized as follows:

County Treasurer, Lake County	$ 341.95
Norman W. Hauge	$ 4.14
Missoula County	$ 65.88
Westland Oil Co.	$ 6.14
R. R. Mellon	$ 32.50
Gallatin County	$ 37.00
Roosevelt County	$ 32.75

Section 2. Appropriations hereinabove provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 14, 1945.

HOUSE BILL NO. 180

An Act to Appropriate Funds for the Payment of Certain Deficiency Claims Arising for Obligations Incurred by the State Hospital.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sum, or so much thereof as may be necessary be and the same is hereby appropriated out of any money in the state treasury, not otherwise appropriated, for the purpose of paying the following deficiency claim arising for obligations incurred by the state hospital.

FROM THE GENERAL FUND

Brack Motor Supply, one hundred twenty-five dollars and twenty-four cents ..... $ 125.24

Section 2. Appropriations hereinabove provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 14, 1945.

HOUSE BILL NO. 181

An Act to Appropriate Funds for the Payment of Certain Deficiency Claims Arising for Obligations Incurred by the Department of Adjutant General.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sum, or so much thereof as may be necessary be and the same is hereby appropriated out of any money in the general fund, not otherwise appropriated, for the purpose of paying the following deficiency claims arising for obligations incurred by the department of adjutant general.

FROM THE GENERAL FUND

Naegele Printing Company, seven hundred nine dollars and eighty-two cents ..... $ 709.82

Section 2. Appropriations hereinabove provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 14, 1945.

HOUSE BILL NO. 182

An Act to Appropriate Funds for the Payment of Certain Deficiency

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Claims Arising for Obligations Incurred by the State Industrial School.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sum, or so much thereof as may be necessary be and the same is hereby appropriated out of any money in the general fund, not otherwise appropriated, for the purpose of paying the following deficiency claims arising for obligations incurred by the industrial school.

FROM THE GENERAL FUND

For obligations incurred by the industrial school, nine hundred seventy-four dollars and seventy-eight cents ..... $ 974.78

More particularly itemized as follows:

Dr. A. M. Brockway	$ 357.50
Holy Rosary Hospital	$ 194.50
Industrial School, boys' fund	$ 76.08
Custer County High School	$ 346.70

Section 2. Appropriations hereinabove provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 14, 1945.

HOUSE BILL NO. 238

An Act to Appropriate to the Use of the State Board of Commissioners for the Insane the Sum of Fifty Thousand Dollars ($50,000.00) to Be Used for the Construction and Maintenance of a Drainage System of the Grounds Upon Which the Montana State Hospital at Warm Springs is Located, and the Lands Immediately Adjacent Thereto and Owned by the State of Montana, and for Fire Protection for the Buildings Thereon Located.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of fifty thousand dollars ($50,000.00) be, and the same is hereby appropriated out of the general funds in the state treasury, such money to be used and expended by the state board of commissioners for the insane in the constructing and maintaining

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of a drainage system of the land upon which the Montana state hospital is located and the lands immediately adjacent thereto, and for fire protection for the buildings thereon located.

Section 2. That the fifty thousand dollars ($50,000.00) hereby appropriated shall be expended by order of the state board of commissioners for the insane in the following manner: The amount of twenty-five thousand dollars ($25,000.00) or as much thereof as is necessary is hereby appropriated for the construction and maintenance of a drainage system for the state hospital and lands adjacent thereto and the sum of twenty-five thousand dollars ($25,000.00) is hereby appropriated for the construction and maintenance of water lines and equipment necessary for fire protection at said institution provided, however, that any unexpended amounts in the drainage fund heretofore mentioned may be transferred by the state board of commissioners for the insane to the use and benefit of the fire protection fund.

Section 3. This being a supplementary appropriation bill, the appropriation shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved March 5, 1945.

HOUSE BILL NO. 250

An Act to Appropriate the Sum of Ninety-five Thousand Dollars ($95,000.00) for Each of the Fiscal Years 1945 to 1946 and 1946 to 1947 for the Purpose of Paying Rental to the Montana Armory Board for Primary Leases of Armories, Sites, and Other Property Leased by Said Board to the State and Used by the State for Military Purposes and Providing That Said Funds Shall Be Applied to the Payment of Montana Armory Board Bonds.

Be it enacted by the Legislative Assembly of the State of Montana:

WHEREAS, the Montana armory board created and existing by Chapter 161 Session Laws of Montana of 1939, as amended by Chapter 123 Session Laws of Montana of 1941, and by Chapter 204 Session Laws of Montana 1943, is the owner of armory buildings, sites, and other property which it has heretofore leased to the State of Montana on the terms and pursuant to the authority contained in the acts aforesaid, and

WHEREAS, the State of Montana has made use of said property in

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the prosecution of the national war effort and to assist in defending the United States in time of war, and

WHEREAS, said Montana armory board has issued four hundred fifty thousand dollars ($450,000.00) of bonds the proceeds of which have been used in building and acquiring the armories, sites, and other property aforesaid, of which bond issue two hundred eighty-four thousand dollars ($284,000.00) now remains unpaid, and

WHEREAS, under the provisions of the acts aforesaid, when all bonded and other debts of said Montana armory board have been paid, all such armories, sites, and buildings are required to be donated and conveyed to the State of Montana, and

WHEREAS, the use of said armories, sites, and buildings during the period of their utilization by the state and during the coming two years has been and will be reasonably worth the amount appropriated by this act, and

WHEREAS, the early transfer of said properties to the state, free of debt, should be facilitated.

NOW THEREFORE.

Section 1. An appropriation of ninety-five thousand dollars ($95,000.00) is hereby made out of any unexpended monies in the general fund of the State of Montana, to the Montana armory board, for each of the state fiscal years of 1945-1946 and 1946-1947, (being a total appropriation for said biennium of $190,000.00) as rental for armory buildings, sites, and other property heretofore leased to the state by said board under primary leases as provided by Section 3, Chapter 123 Session Laws of Montana of 1941.

Section 2. This appropriation is made upon the expressed condition that all the money appropriated to said board by this act shall be applied in payment of any outstanding Montana armory board bonds.

Section 3. This act shall be effective despite any contrary requirements of the state budget act.

Approved February 28, 1945.

HOUSE BILL NO. 265

An Act Appropriating Money for the Payment of the Claim of Henry Sullivan for Refund of the Excess Annual Retail Liquor License Fee Exacted of Him by the Montana Liquor Control Board for the Year 1942.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. THAT WHEREAS, on or about January 1st, 1942, the Montana liquor control board demanded of one Henry Sullivan the sum of six hundred ($600.00) dollars as a retail liquor license fee for the year 1942 for his premises located at number 705 North Main street, in the town of Centerville, Silver Bow county, State of Montana; and,

WHEREAS, on January 9th, 1942, said Henry Sullivan paid said sum of six hundred ($600.00) dollars under written protest as to four hundred ($400.00) dollars thereof to the Montana liquor control board for such license, claiming that his premises are located in an unincorporated town with a population of 2000 or less, and that therefore the proper license fee for his place is two hundred ($200.00) dollars instead of six hundred ($600.00) dollars; and,

WHEREAS, the Montana liquor control board thereupon agreed in writing with the said Henry Sullivan that the sum of four hundred ($400.00) dollars of the said sum of six hundred ($600.00) dollars would be held in a separate protest fund to be returned to him if it should be determined by the supreme court of Montana that the proper license fee to be paid by retail liquor dealers within the said town of Centerville, Montana, for the year 1942 is the sum of two hundred ($200.00) dollars; and,

WHEREAS, the supreme court of Montana on December 16th, 1942, in the case of Pollard vs. The Montana Liquor Control Board, held that the sum of two hundred ($200.00) dollars is the amount fixed by the retail liquor act of Montana for 1937, as amended, for annual retail liquor licenses within the said town of Centerville, Silver Bow county, Montana, for the year 1942; and,

WHEREAS, the Montana liquor control board inadvertently deposited in the treasury of the State of Montana said sum of four hundred ($400.00) dollars so paid under protest to the Montana liquor control board by the said Henry Sullivan;

NOW, THEREFORE, there is hereby appropriated out of the moneys in the treasury of the State of Montana, not otherwise appropriated, the sum of four hundred ($400.00) dollars for the payment of the aforesaid claim of the said Henry Sullivan.

Section 2. The appropriation hereinabove provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

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Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 23, 1945.

HOUSE BILL NO. 269

An Act to Appropriate Money for the Purpose of Paying Salaries for the Governor's Office and Postmaster and Assistant for the period Ending June 30, 1945, It Having Been Determined That the Appropriation Made by the Twenty-eighth Legislative Assembly Was Insufficient.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums, or so much thereof as may be necessary be and the same is hereby appropriated out of any money in the state treasury, not otherwise appropriated, for the purpose of paying salaries in the governor's office and postmaster and assistant for the period ending June 30, 1945, it having been determined that the appropriation provided by the twenty-eighth legislative assembly is insufficient.

FROM THE GENERAL FUND

For the governor's office

For salaries, three hundred dollars ..... $ 300.00

For the postmaster and assistant

For salaries, two hundred fifty dollars ..... $ 250.00

Section 2. The appropriation herein provided shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 3. This act shall be in full force and effect from and after its passage and approval.

Approved February 19, 1945.

HOUSE BILL NO. 297

An Act to Appropriate Money for the Operation, Maintenance, and Other Purposes, As Designated Herein for the Veterans' Welfare Commission of the State of Montana, for the Period Beginning July 1, 1945, and Ending June 30, 1947.

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Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purposes of this act, unless otherwise required by the context:

(1) The term "salaries" means the compensation paid in consideration of services rendered to all regularly elected or appointed officers or employees whose duties are of a continuous nature. It does not mean wages or compensation paid in consideration of services rendered to temporary employees and for persons appointed or hired for a period of less than one (1) month, the payment of which is hereby made a proper charge from funds appropriated for "operation."

(2) The term "operation" means all other expenditures which are necessary for the operation of the department, board, bureau, commission, or institution to which the appropriation applies, including the wages of employees paid to temporary employees for work not considered of a continuous nature.

(3) The term "salaries and expenses" means any expense, including salaries, capital, repairs and replacements and operation, as defined above.

(4) The term "expense" means any expense defined above, with the exception of salaries.

(5) The appropriations contained in this act are intended to provide only necessary expenditures for the year for which the appropriation is provided. All claims for such expenditures must be presented for payment not later than thirty (30) days after the close of the fiscal year. Supplies purchased for a succeeding year are in violation of this act. In cases of necessity, appropriations may be used for either year, provided, however, that any unexpended balances at the end of the second year shall revert to the fund from which they are appropriated.

Section 2. That the following sum or so much thereof as may be found necessary, be, and the same is hereby appropriated out of any moneys in the state treasury, and from special funds enumerated herein not otherwise appropriated for the objects and purposes hereinafter expressed, for the period beginning July 1, 1945, and ending June 30, 1946.

VETERANS' WELFARE COMMISSION

FROM THE GENERAL FUND

For salaries and expenses—two hundred thousand dollars ($200,000.00)

Section 3. That the following sums, or so much thereof as may be found necessary, be, and the same are hereby appropriated out of any

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moneys in the state treasury, and from special funds enumerated herein not otherwise appropriated for the objects and purposes hereinafter expressed, for the period beginning July 1, 1946, and ending June 30, 1947.

VETERANS' WELFARE COMMISSION

FROM THE GENERAL FUND

For salaries and expenses—two hundred thousand dollars ($200,000.00)

Section 4. Provided further, that all appropriations contained herein shall be used for the purposes designated and no other, and definitions given in section 1 of this act shall govern all appropriations.

Section 5. The appropriations herein above provided shall be deemed and held valid notwithstanding the provisions of the budget act.

Approved March 5, 1945.

HOUSE BILL NO. 317

An Act to Appropriate Money for the Purpose of Making Settlement With Paul C. Phillips Arising from An Obligation Incurred for the Payment of Salary for Paul C. Phillips a Professor at the State University, and providing That the State Board of Examiners Shall Make Final and Complete Settlement.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the sum of five thousand dollars ($5,000.00), or so much thereof as may be necessary, be and the same is hereby appropriated out of the university millage fund, not otherwise appropriated, for the settlement of the claim of Paul C. Phillips arising from an obligation incurred for the payment of salary of said Paul C. Phillips a professor at the Montana state university.

Section 2. It is hereby provided that the state board of examiners are given authority to make a final and complete settlement with the aforesaid Paul C. Phillips, provided, however, that in making such settlement the amount to be paid Paul C. Phillips shall not exceed the appropriation contained herein.

Section 3. The appropriation herein provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved February 19, 1945.

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HOUSE BILL NO. 325

An Act to Appropriate Money for the Operation, Maintenance and Other Purposes, As Designated Herein for All State Departments, Boards, Bureaus, Commissions and Institutions, for the Period Beginning July 1, 1945 and Ending June 30, 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purpose of this act, unless otherwise required by the context:

(1) The term "salaries" means the compensation paid in consideration of services rendered to all regularly elected or appointed officers or employees whose duties are of a continuous nature. It does not mean wages or compensation paid in consideration of services rendered to temporary employees and for persons appointed or hired for a period of less than one (1) month, the payment of which is hereby made a proper charge from funds appropriated for "operation."

(2) The term "capital", unless otherwise designated or defined, means all articles, fixtures and goods of a permanent nature, but, in no event, shall the term "capital" mean buildings or purchase of lands, unless specifically defined herein. Store supplies shall have the same limitations.

(3) The term "repairs" means the amount to be paid for the repair of any capital asset, including buildings or lands.

(4) The term "replacements" means the amount to be paid for the replacing of any capital asset, as defined in paragraph (2) above, by the purchase of a new one to take its place by reason of the original being worn out or broken.

(5) The term "operation" means all other expenditures which are necessary for the operation of the department, board, bureau, commission or institution to which the appropriation applies, including wages of employees paid to temporary employees for work not considered of a continuous nature.

(6) The term "salaries and expenses" means any expense, including salaries, capital, repairs and replacements and operation, as defined above.

(7) The term "expense" means any expense defined above, with the exception of salaries.

(8) The appropriations contained in this act are intended to provide only necessary expenditures for the year for which the appropriation is provided. All claims for such expenditures must be presented for payment not later than thirty (30) days after the close of the fiscal

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year. Supplies purchased for a succeeding year are in violation of this act. In cases of necessity, appropriations may be used for either year, provided, however, that any unexpended balances at the end of the second year shall revert to the funds from which they were appropriated.

(9) When reference is made herein to any chapter or section of the laws of Montana, said reference shall include any and all laws amendatory thereto.

Section 2. That the following sums or so much thereof as may be found necessary, be, and the same are hereby appropriated out of any moneys in the state treasury, and from special funds enumerated herein not otherwise appropriated for the objects and purposes hereinafter expressed, for the period beginning July 1, 1945 and ending June 30, 1946.

LIVESTOCK SANITARY BOARD AND

VETERINARY SURGEON

FROM THE GENERAL FUND

For salaries and expenses, seventy-five thousand dollars $ 75,000.00

For poultry disease control, five thousand dollars 5,000.00

FROM THE LIVESTOCK SANITARY BOARD FUND

For payment of slaughtered stock, as provided by law, and for salaries and expenses of the livestock sanitary board, such sums as may be available are hereby appropriated.

FROM THE LIVESTOCK SANITARY BOARD

EMERGENCY FUND

For the payment of emergencies arising out of the operation of the livestock sanitary board as much as may be required when such emergency is declared to exist as provided in Section 2078, Revised Codes of Montana, 1935.

LIVESTOCK COMMISSION

FROM THE GENERAL FUND

For salaries and expenses, twenty-five thousand dollars $ 25,000.00

FROM THE LIVESTOCK COMMISSION FUND

As much as may be necessary to pay all lawful claims, as provided by law.

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FROM THE BOUNTY FUND

For the payment of bounty claims so much thereof as may be necessary, as provided by law.

FROM THE STOCK ESTRAY FUND

For the payment of estray claims, so much thereof as may be necessary, as provided by law.

BUREAU OF CIVILIAN REHABILITATION

FROM THE GENERAL FUND

For salaries and expenses, thirty-five thousand dollars ....$ 35,000.00

In addition thereto, there is hereby appropriated all moneys received from the federal government for civilian rehabilitation; provided, however, that no administrative salaries shall be increased by reason of the use of this fund.

BOARD OF ENTOMOLOGY

FROM THE GENERAL FUND

For salaries and expenses, five hundred dollars .....$ 500.00

BOARD OF HEALTH

FROM THE GENERAL FUND

For salaries, nine thousand fifty dollars .....$ 9,050.00
For capital, repairs and replacements, eight hundred dollars .....$ 800.00
For operation, twenty-three hundred fifty dollars .....$ 2,350.00
For venereal disease control, four thousand dollars .....$ 4,000.00

MATERNAL AND CHILD HEALTH

FROM THE GENERAL FUND

For salaries and expenses, twelve thousand dollars .....$ 12,000.00

PURE FOOD DIVISION

FROM THE GENERAL FUND

For salaries and expenses, seven thousand dollars .....$ 7,000.00

WATER ANALYSIS

FROM THE GENERAL FUND

For salaries and expenses, nine thousand dollars .....$ 9,000.00

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EPIDEMIOLOGIST

FROM THE GENERAL FUND

For salaries and expenses, sixty-eight hundred twenty-seven dollars ..... $ 6,827.00

VITAL STATISTICS

FROM THE GENERAL FUND

For salaries and expenses, ninety-seven hundred ninety dollars ..... $ 9,790.00

BACTERIOLOGIST

FROM THE GENERAL FUND

For salaries and expenses, twelve thousand five hundred seventy-four dollars ..... $ 12,574.00

INDUSTRIAL HYGIENE

FROM THE GENERAL FUND

For salaries and expenses, eight thousand dollars ..... $ 8,000.00

CRIPPLED CHILDREN AND CHILDREN WITH RHEUMATIC FEVER

FROM THE GENERAL FUND

For salaries and expenses, forty thousand dollars ..... $ 40,000.00

In addition thereto, there is hereby appropriated, any money that may be received from the federal government to be used as provided in the grant.

DENTAL DIVISION

FROM THE GENERAL FUND

For salaries and expenses, seventy-five hundred dollars $ 7,500.00

STATE EXAMINER

FROM THE GENERAL FUND

For salaries, thirty-nine thousand four hundred eighty dollars ..... $ 39,480.00

For capital, repairs and replacements, one hundred dollars ..... $ 100.00

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For operation, fifteen thousand eight hundred fifty dollars ..... $ 15,850.00

PERMANENT REVOLVING FUND

FROM THE GENERAL FUND

There is further appropriated from the general fund the sum of one thousand dollars ($1,000.00) for the purpose of creating a permanent revolving fund to be known as the state examiner's revolving fund. The salaries and expenses of all examinations of the state liquor control board, the public welfare commission, the Montana fish and game department, and of all special examinations of any state office, department or agency shall be paid from this revolving fund, and such state office, department or agency shall reimburse said fund in an amount equal to the entire expense incurred in making such examination or examinations, so that this fund may become a permanent revolving fund for the purpose of meeting the expenses incurred in making special or unusual examination as above set forth.

ADJUTANT GENERAL

FROM THE GENERAL FUND

For salaries, seven thousand twenty dollars ..... $ 7,020.00

For capital, repairs and replacements, two hundred twenty-five dollars ..... $ 225.00

For operation, seven hundred dollars ..... $ 700.00

BOARD OF HAIL INSURANCE

FROM THE HAIL INSURANCE ADMINISTRATIVE FUND

For salaries and expenses, fifteen thousand four hundred seventy-five dollars ..... $ 15,475.00

FROM THE HAIL INSURANCE FUND

So much thereof as may be necessary to pay all losses and lawful claims as provided by law.

INDUSTRIAL ACCIDENT BOARD

FROM THE GENERAL FUND

For salaries and expenses, forty-six thousand six hundred dollars ..... $ 46,600.00

FROM THE INDUSTRIAL ACCIDENT ADMINISTRATIVE FUND

In addition to the above appropriation, there is hereby appropriated

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all fees and collections accruing to the industrial administrative fund for salaries and expenses as provided by law.

FROM THE INDUSTRIAL ACCIDENT FUND

So much thereof as may be necessary to pay all lawful claims as provided by law.

FROM THE VOLUNTEER FIREMEN'S COMPENSATION

For administrative expenses as much as may be necessary, as provided by law. For disability claims as much as may be necessary as provided by law.

BOARD OF EXAMINERS FOR COAL MINE INSPECTORS

FROM THE GENERAL FUND

For salaries and expenses, three hundred fifty dollars ....$ 350.00

BOARD OF EDUCATION

FROM THE GENERAL FUND

For expenses of the state board of education, six hundred dollars .....$ 600.00

FROM THE MILLAGE FUND

For expenses, one thousand dollars .....$ 1,000.00

FROM THE COMMON SCHOOL EQUALIZATION FUND

For salary of one clerk, eighteen hundred dollars .....$ 1,800.00

VISUAL EDUCATION

FROM THE EQUALIZATION FUND

For salaries and expenses, ten thousand dollars .....$ 10,000.00

VOCATIONAL EDUCATION

FROM THE GENERAL FUND

For salaries and expenses in connection with vocational education, twenty-four thousand three hundred fifty dollars .....$ 24,350.00

In addition to the foregoing amount, all income from federal funds known as vocational U. S. aid fund, George Dean fund, or any other federal funds that may be available, are hereby appropriated. No reimbursement shall be made to any of the units of the university of Montana from the above general fund appropriation.

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STATE ENTOMOLOGIST

FROM THE GENERAL FUND

For salaries and expenses, sixty-one hundred thirty-five dollars ..... $ 6,135.00

APICULTURE DIVISION

FROM THE GENERAL FUND

For salaries and expenses, forty-three hundred twenty dollars ..... $ 4,320.00

STATE LAW LIBRARY

FROM THE GENERAL FUND

For salaries, forty-three hundred dollars ..... $ 4,300.00

For capital, repairs and replacements, three hundred dollars ..... $ 300.00

For operation, three hundred dollars ..... $ 300.00

For legislative reference bureau, seventy-five dollars ..... $ 75.00

FROM THE LAW LIBRARY BOOK FUND

So much thereof as may be necessary for the purchase of law books, as provided by law.

HISTORICAL SOCIETY OF MONTANA

FROM THE GENERAL FUND

For salaries, forty-five hundred fifty dollars ..... $ 4,550.00

For capital, repairs and replacements, sixteen hundred dollars ..... $ 1,600.00

For operation, seven hundred dollars ..... $ 700.00

STATE BOARD OF EXAMINERS

FROM THE GENERAL FUND

For salaries, twelve thousand eight hundred thirty-five dollars ..... $ 12,835.00

For capital, repairs and replacements, three hundred fifty dollars ..... $ 350.00

For operation, sixteen hundred twenty-five dollars ..... $ 1,625.00

STATE ACCOUNTANT AND BUDGET OFFICE

FROM THE GENERAL FUND

For salaries, thirteen thousand five hundred dollars ..... $ 13,500.00

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For capital, repairs and replacements, nine hundred fifty-five dollars .....$ 955.00

For operation, fifteen hundred eighty-five dollars .....$ 1,585.00

STATE ENGINEER

FROM THE GENERAL FUND

For salaries, fifty-four hundred dollars .....$ 5,400.00

For capital, repairs, replacements and operation, twenty-two hundred ninety dollars .....$ 2,290.00

FROM THE CAREY LAND ACT FUND

For salaries and expenses, all revenue received or to be received, is hereby appropriated for the purpose for which this fund is established.

SURVEY OF INTERSTATE WATERS AND

WATER RESOURCES SURVEY

FROM THE GENERAL FUND

For salaries and expenses, four thousand dollars .....$ 4,000.00

STREAM GAUGING

FROM THE GENERAL FUND

For salaries and expenses, eighteen thousand dollars .....$ 18,000.00

STATE HIGHWAY COMMISSION

FROM THE HIGHWAY FUND

There is hereby appropriated out of the state highway fund all revenue for expenditures by the state highway commission as provided by law; provided that the total cost to the state for administration on the federal aid work prescribed by law shall not exceed for any fiscal year eight per cent (8%) of the total of state and federal aid and other available funds expended under the supervision of the state highway commission as provided by initiative measure No. 31 and acts supplementary or amendatory thereto; provided further, that the state treasurer is hereby required to transfer from the state highway fund to the state highway trust fund from time to time upon the request of the state highway commission, subject to the approval of the state board of examiners such parts of the money hereby appropriated as is necessary to match federal aid for construction and for reconstruction purposes, and when so transferred, said moneys may be ex-

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pended and drawn from the said state highway trust fund in the manner as other moneys in said funds are expended.

In addition thereto, there is hereby appropriated all federal funds that may be made available for highway purposes.

COMMISSIONER OF STATE LANDS AND INVESTMENTS

FROM THE GENERAL FUND

For salaries, twenty thousand eight hundred sixty dollars ..... $ 20,860.00

For capital, repairs and replacements, eleven hundred dollars ..... $ 1,100.00

For operation, forty-five hundred dollars ..... $ 4,500.00

CHIEF FIELD AGENT

FROM THE GENERAL FUND

For salaries and expenses, thirty-one thousand three hundred fifty dollars ..... $ 31,350.00

FISH AND GAME COMMISSION

FROM THE FISH AND GAME FUND

As much as may be necessary to pay all lawful claims as provided by law. In addition, thereto, there is hereby appropriated all federal funds which may be received for the use of the fish and game commission.

CAPITOL BUILDING

FROM THE GENERAL FUND

For salaries, thirty-one thousand eight hundred dollars $ 31,800.00

For salary of postmaster and assistant, thirty-six hundred dollars ..... $ 3,600.00

For salary of substitute for vacations, one hundred twenty-five dollars ..... $ 125.00

For capital, repairs and replacements, nine thousand dollars ..... $ 9,000.00

For operation, thirteen thousand two hundred thirty dollars ..... $ 13,230.00

For re-carpeting house and senate chambers and adjoining halls, forty-five hundred dollars ..... $ 4,500.00

For expense of delivering mail, one hundred eighty dollars ..... $ 180.00

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G. A. R. CUSTODIAN

FROM THE GENERAL FUND

For salary of custodian, nine hundred dollars .....$ 900.00
For expenses, two hundred dollars .....$ 200.00

MILK CONTROL BOARD

FROM THE GENERAL FUND

For salaries and expenses, ten thousand dollars .....$ 10,000.00

Provided, however, that no claims shall be made from this appropriation which will exceed in aggregate, the fees and collections deposited with the state treasurer to the credit of the general fund for that fiscal year or the appropriation herein provided.

BOARD OF EQUALIZATION

FROM THE GENERAL FUND

For salaries and expenses, one hundred ten thousand seven hundred twenty-four dollars $110,724.00

FROM THE COMMON SCHOOL EQUALIZATION FUND

For salaries and expenses, fourteen thousand dollars .....$ 14,000.00

FROM THE HIGHWAY FUND

For salaries and expenses, twenty-nine thousand three hundred dollars .....$ 29,300.00

FROM THE GASOLINE DRAWBACK FUND

For gasoline drawbacks, including refunds to the federal government, as much as may be necessary to comply with the provisions of the law.

DEPARTMENT OF AGRICULTURE, LABOR AND INDUSTRY ADMINISTRATIVE DEPARTMENT

FROM THE GENERAL FUND

For salaries, eighty-three hundred dollars .....$ 8,300.00
For operation, repairs and replacements, nineteen hundred sixty-five dollars .....$ 1,965.00

DAIRY DIVISION

FROM THE GENERAL FUND

For salaries and expenses, twenty-seven thousand three hundred fifty dollars .....$ 27,350.00

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GRAIN GRADING AND SCALE TESTING DIVISION

FROM THE GENERAL FUND

For salaries and expenses, eighty-five thousand two hundred twenty dollars ..... $ 85,220.00

HORTICULTURE DIVISION

FROM THE GENERAL FUND

For salaries and expenses, seventy thousand two hundred sixty-five dollars ..... $ 70,265.00

FROM THE HIGHWAY FUND

For salaries and expenses, six thousand dollars ..... $ 6,000.00

LABOR DIVISION

FROM THE GENERAL FUND

For salaries and expenses, ten thousand dollars ..... $ 10,000.00

REAL ESTATE DIVISION

FROM THE GENERAL FUND

For salaries and expenses, two thousand two hundred thirty-five dollars ..... $ 2,235.00

COMMERCIAL FERTILIZER DIVISION

FROM THE GENERAL FUND

For salaries and expenses, three hundred fifty dollars .... $ 350.00

COMMERCIAL FEED DIVISION

FROM THE COMMERCIAL FEED FUND

As much as may be necessary to carry out the law for which this fund was established.

It is further provided, that upon request of the commissioner of agriculture, the state board of examiners may transfer amounts of appropriations not needed between the grain, dairy and horticulture divisions, provided the aggregate total is neither increased or decreased.

PURCHASING AGENT

FROM THE GENERAL FUND

For salaries, eleven thousand three hundred dollars ..... $ 11,300.00

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For maintenance and repairs of fair grounds, two hundred fifty dollars ..... $ 250.00

FROM THE HIGHWAY FUND

For salaries and expenses, thirteen thousand five hundred dollars ..... $ 13,500.00

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, five thousand dollars ..... $ 5,000.00

STATE FORESTER ADMINISTRATION

FROM THE GENERAL FUND

For salaries, nine thousand eighty dollars ..... $ 9,080.00

For capital, repairs and replacements, six hundred dollars ..... $ 600.00

For operation, six hundred fifty dollars ..... $ 650.00

PROTECTION OF STATE LANDS

FROM THE GENERAL FUND

For salaries and expenses, twenty thousand three hundred eighty-seven dollars ..... $ 20,387.00

TIMBER SALES

FROM THE GENERAL FUND

For salaries and expenses, fifteen thousand six hundred twenty dollars ..... $ 15,620.00

In addition to the above appropriations for the state forester, there is hereby appropriated all money received from the federal government or trusts to be used for the purposes for which they were provided.

FOREST LANDS ADVISORY COMMISSION

FROM THE GENERAL FUND

For salaries and expenses, five hundred dollars ..... $ 500.00

SOIL CONSERVATION COMMITTEE

FROM THE GENERAL FUND

For salaries and expenses, one thousand dollars ..... $ 1,000.00

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UNEMPLOYMENT COMPENSATION COMMISSION OF MONTANA

FROM THE GENERAL FUND

For administrative salaries and expenses and for implementing the purpose of section 11-B of Montana unemployment compensation law in opposing federalization, fifteen thousand dollars ..... $ 15,000.00

FROM THE UNEMPLOYMENT COMPENSATION BENEFIT FUND

So much thereof as may be necessary to comply with the provisions of the law.

FROM THE MONTANA CASH SICKNESS AND DISABILITY FUND

So much thereof as may be necessary to comply with the provisions of the law.

STATE HIGHWAY PATROL

FROM THE GENERAL FUND

For salaries and expenses, three hundred thousand dollars $300,000.00

MOTOR VEHICLE DEPARTMENT

FROM THE MOTOR VEHICLE RECORDING FUND

For salaries and expenses, so much thereof as may be necessary to pay all lawful claims as provided by law.

ATHLETIC COMMISSION

FROM THE VETERANS MEMORIAL FUND

For salaries and expenses, as much as may be necessary to pay all lawful claims as provided by law.

DISTRICT JUDGES

FROM THE GENERAL FUND

For salaries, one hundred ten thousand four hundred dollars $110,400.00

For expenses, twelve thousand six hundred dollars ..... $ 12,600.00

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COUNTY ATTORNEYS

FROM THE GENERAL FUND

For salaries, fifty thousand dollars ..... $ 50,000.00

TRANSPORTATION OF PRISONERS

FROM THE GENERAL FUND

For the purpose of paying the expenses of transporting prisoners, nine thousand dollars ..... $ 9,000.00

FIRE INSURANCE

FROM THE GENERAL FUND

As much as may be necessary for premiums on insurance on institutions or departments applicable thereto, thirty-five thousand dollars ..... $ 35,000.00

FROM THE MILLAGE FUND

As much as may be necessary to pay premiums for insurance on buildings or institutions for the greater university of Montana, twenty-seven thousand dollars ..... $ 27,000.00

FROM THE HIGHWAY FUND

For premiums on insurance for the highway department, seven thousand five hundred dollars ..... $ 7,500.00

FROM THE MOTOR RECORDING FUND

For premiums on insurance for the motor vehicle department, five hundred dollars ..... $ 500.00

MONTANA STATE APPRENTICESHIP COUNCIL

FROM THE GENERAL FUND

For operation, one thousand dollars ..... $ 1,000.00

MONTANA TRADE COMMISSION

FROM THE GENERAL FUND

For salaries and expenses, four thousand two hundred fifty dollars ..... $ 4,250.00

STATE LIQUOR CONTROL BOARD

The state liquor control board are hereby authorized to pay all lawful claims from the moneys received from the sale of liquor in the ad-

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ministration of the liquor control act as provided in Section 2815.153 and 2815.154 Revised Codes of Montana 1935.

BEER DIVISION

FROM THE BEER ACT FUND

There is hereby appropriated as much as may be necessary not exceeding ten per cent (10%) of all revenue received, as provided in Section 2815.50 Revised Codes of Montana 1935.

REGULATORY BOARDS

All regulatory boards for which the law provides for a collection of fees and such fees are deposited with the state treasurer, as trust funds, are hereby appropriated for the use of each of the said boards, a sum equal to the amount of their collections, except wherein the law provides for deductions.

Section 3. That the following sums, or so much thereof as may be found necessary be and the same are hereby appropriated out of any moneys in the state treasury, and from special funds enumerated herein not otherwise appropriated for the objects and purposes hereinafter expressed, for the period beginning July 1, 1946, and ending June 30, 1947.

LIVESTOCK SANITARY BOARD AND VETERINARY SURGEON

FROM THE GENERAL FUND

For salaries and expenses, seventy-five thousand dollars $ 75,000.00
For poultry disease control, five thousand dollars .....$ 5,000.00

FROM THE LIVESTOCK SANITARY BOARD FUND

For the payment of slaughtered stock, as provided by law, and for salaries and expenses of the livestock sanitary board, such sums as may be available are hereby appropriated.

FROM THE LIVESTOCK SANITARY BOARD EMERGENCY FUND

For the payment of emergencies arising out of the operation of the livestock sanitary board as much as may be required when such emergency is declared to exist as provided in Section 2078, Revised Codes of Montana 1935.

LIVESTOCK COMMISSION

FROM THE GENERAL FUND

For salaries and expenses, twenty-five thousand dollars $ 25,000.00

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FROM THE LIVESTOCK COMMISSION FUND

As much as may be necessary to pay all lawful claims, as provided by law.

FROM THE BOUNTY FUND

For the payment of bounty claims so much thereof as may be necessary, as provided by law.

FROM THE STOCK ESTRAY FUND

For the payment of estray claims, so much thereof as may be necessary, as provided by law.

BUREAU OF CIVILIAN REHABILITATION

FROM THE GENERAL FUND

For salaries and expenses, thirty-five thousand dollars ....$ 35,000.00

In addition thereto there is hereby appropriated all moneys received from the federal government for civilian rehabilitation; provided, however, that no administrative salaries shall be increased by reason of the use of this fund.

BOARD OF ENTOMOLOGY

FROM THE GENERAL FUND

For salaries and expenses, five hundred dollars .....$ 500.00

BOARD OF HEALTH

FROM THE GENERAL FUND

For salaries, nine thousand fifty dollars .....$ 9,050.00

For capital, repairs and replacements, eight hundred dollars .....$ 800.00

For operation, twenty-three hundred fifty dollars .....$ 2,350.00

For venereal disease control, four thousand dollars .....$ 4,000.00

MATERNAL AND CHILD HEALTH

FROM THE GENERAL FUND

For salaries and expenses, twelve thousand dollars .....$ 12,000.00

PURE FOOD DIVISION

FROM THE GENERAL FUND

For salaries and expenses, seven thousand dollars .....$ 7,000.00

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WATER ANALYSIS

FROM THE GENERAL FUND

For salaries and expenses, nine thousand dollars .....$ 9,000.00

EPIDEMIOLOGIST

FROM THE GENERAL FUND

For salaries and expenses, sixty-eight hundred twenty-seven dollars .....$ 6,827.00

VITAL STATISTICS

FROM THE GENERAL FUND

For salaries and expenses, ninety-seven hundred ninety dollars .....$ 9,790.00

BACTERIOLOGIST

FROM THE GENERAL FUND

For salaries and expenses, twelve thousand five hundred seventy-four dollars .....$ 12,574.00

INDUSTRIAL HYGIENE

FROM THE GENERAL FUND

For salaries and expenses, eight thousand dollars .....$ 8,000.00

CRIPPLED CHILDREN AND CHILDREN WITH RHEUMATIC FEVER

FROM THE GENERAL FUND

For salaries and expenses, forty thousand dollars .....$ 40,000.00

In addition thereto, there is hereby appropriated, any money that may be received from the federal government to be used as provided in the grant.

DENTAL DIVISION

FROM THE GENERAL FUND

For salaries and expenses, seventy-five hundred dollars $ 7,500.00

STATE EXAMINER

FROM THE GENERAL FUND

For salaries, thirty-nine thousand four hundred eighty dollars .....$ 39,480.00

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For capital, repairs and replacements, one hundred dollars ..... $ 100.00

For operation, fifteen thousand eight hundred fifty dollars ..... $ 15,850.00

ADJUTANT GENERAL

FROM THE GENERAL FUND

For salaries, seven thousand twenty dollars ..... $ 7,020.00

For capital, repairs and replacements, two hundred twenty-five dollars ..... $ 225.00

For operation, seven hundred dollars ..... $ 700.00

BOARD OF HAIL INSURANCE

FROM THE HAIL INSURANCE ADMINISTRATIVE FUND

For salaries and expenses, fifteen thousand four hundred seventy-five dollars ..... $ 15,475.00

FROM THE HAIL INSURANCE FUND

So much thereof as may be necessary to pay all losses and lawful claims as provided by law.

INDUSTRIAL ACCIDENT BOARD

FROM THE GENERAL FUND

For salaries and expenses, forty-six thousand six hundred dollars ..... $ 46,600.00

FROM THE INDUSTRIAL ACCIDENT ADMINISTRATIVE FUND

In addition to the above appropriation there is hereby appropriated all fees and collections accruing to the industrial administrative fund for salaries and expenses as provided by law.

FROM THE INDUSTRIAL ACCIDENT FUND

So much thereof as may be necessary to pay all lawful claims as provided by law.

FROM THE VOLUNTEER FIREMEN'S COMPENSATION

For administrative expenses as much as may be necessary, as provided by law. For disability claims as much as may be necessary as provided by law.

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BOARD OF EXAMINERS FOR COAL MINE INSPECTORS

FROM THE GENERAL FUND

For salaries and expenses, three hundred fifty dollars ....$ 350.00

BOARD OF EDUCATION

FROM THE GENERAL FUND

For expenses of the state board of education, six hundred dollars .....$ 600.00

FROM THE MILLAGE FUND

For expenses, one thousand dollars .....$ 1,000.00

FROM THE COMMON SCHOOL EQUALIZATION FUND

For salary of one clerk, eighteen hundred dollars .....$ 1,800.00

VISUAL EDUCATION

FROM THE EQUALIZATION FUND

For salaries and expenses, ten thousand dollars .....$ 10,000.00

VOCATIONAL EDUCATION

FROM THE GENERAL FUND

For salaries and expenses in connection with vocational education, twenty-four thousand three hundred fifty dollars .....$ 24,350.00

In addition to the foregoing amount, all income from federal funds known as vocational U. S. aid fund, George Dean fund, or any other federal funds that may be available, are hereby appropriated. No reimbursement shall be made to any of the units of the university of Montana from the above general fund appropriation

STATE ENTOMOLOGIST

FROM THE GENERAL FUND

For salaries and expenses, sixty-one hundred thirty-five dollars .....$ 6,135.00

APICULTURE DIVISION

FROM THE GENERAL FUND

For salaries and expenses, forty-three hundred twenty dollars .....$ 4,320.00

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STATE LAW LIBRARY

FROM THE GENERAL FUND

For salaries, forty-three hundred dollars ..... $ 4,300.00

For capital, repairs and replacements, two hundred dollars ..... $ 200.00

For operation, three hundred dollars ..... $ 300.00

For legislative reference bureau, seventy-five dollars ... $ 75.00

FROM THE LAW LIBRARY BOOK FUND

So much thereof as may be necessary for the purchase of law books, as provided by law.

HISTORICAL SOCIETY OF MONTANA

FROM THE GENERAL FUND

For salaries, forty-five hundred fifty dollars ..... $ 4,550.00

For capital, repairs and replacements, sixteen hundred dollars ..... $ 1,600.00

For operation, seven hundred dollars ..... $ 700.00

STATE BOARD OF EXAMINERS

FROM THE GENERAL FUND

For salaries, twelve thousand eight hundred thirty-five dollars ..... $ 12,835.00

For capital, repairs and replacements, three hundred fifty dollars ..... $ 350.00

For operation, sixteen hundred twenty-five dollars ..... $ 1,625.00

STATE ACCOUNTANT AND BUDGET OFFICE

FROM THE GENERAL FUND

For salaries, thirteen thousand five hundred dollars ..... $ 13,500.00

For capital, repairs and replacements, two hundred dollars ..... $ 200.00

For operation, forty-two hundred eighty-five dollars ..... $ 4,285.00

STATE ENGINEER

FROM THE GENERAL FUND

For salaries, fifty-four hundred dollars ..... $ 5,400.00

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For capital, repairs, replacements and operation, twenty-two hundred ninety dollars .....$ 2,290.00

FROM THE CAREY LAND ACT FUND

For salaries and expenses, all revenue received or to be received, is hereby appropriated for the purpose for which this fund is established.

SURVEY OF INTERSTATE WATERS AND WATER RESOURCES SURVEY

FROM THE GENERAL FUND

For salaries and expenses, four thousand dollars .....$ 4,000.00

STREAM GAUGING

FROM THE GENERAL FUND

For salaries and expenses, eighteen thousand dollars .....$ 18,000.00

STATE HIGHWAY COMMISSION

FROM THE HIGHWAY FUND

There is hereby appropriated out of the state highway fund all revenue for expenditures by the state highway commission as provided by law; provided that the total cost to the state for administration on the federal aid work prescribed by law shall not exceed for any fiscal year eight per cent (8%) of the total of state and federal aid and other available funds expended under the supervision of the state highway commission as provided by initiative measure No. 31 and acts supplementary or amendatory thereto; provided further, that the state treasurer is hereby required to transfer from the state highway fund to the state highway trust fund from time to time upon the request of the state highway commission, subject to the approval of the state board of examiners such parts of the money hereby appropriated as is necessary to match federal aid for construction and for reconstruction purposes, and when so transferred, said moneys may be expended and drawn from the said state highway trust fund in the manner as other moneys in said funds are expended.

In addition thereto, there is hereby appropriated all federal funds that may be made available for highway purposes.

COMMISSIONER OF STATE LANDS AND INVESTMENTS

FROM THE GENERAL FUND

For salaries, twenty thousand eight hundred sixty dollars .....$ 20,860.00

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For capital, repairs and replacements, one hundred dollars ..... $ 100.00

For operation, forty-five hundred dollars ..... $ 4,500.00

CHIEF FIELD AGENT

FROM THE GENERAL FUND

For salaries and expenses, thirty-one thousand three hundred fifty dollars ..... $ 31,350.00

FISH AND GAME COMMISSION

FROM THE FISH AND GAME FUND

As much as may be necessary to pay all lawful claims as provided by law.

In addition, thereto, there is hereby appropriated all federal funds which may be received for the use of the fish and game commission.

CAPITOL BUILDING

FROM THE GENERAL FUND

For salaries, thirty-one thousand eight hundred dollars $ 31,800.00

For salary of postmaster and assistant, thirty-six hundred dollars ..... $ 3,600.00

For salary of substitute for vacations, one hundred twenty-five dollars ..... $ 125.00

For capital, repairs and replacements, nine thousand dollars ..... $ 9,000.00

For operation, thirteen thousand two hundred thirty dollars ..... $ 13,230.00

For expense of delivering mail, one hundred eighty dollars ..... $ 180.00

G. A. R. CUSTODIAN

FROM THE GENERAL FUND

For salary of custodian, nine hundred dollars ..... $ 900.00

MILK CONTROL BOARD

FROM THE GENERAL FUND

For salaries and expenses, ten thousand dollars ..... $ 10,000.00

Provided, however, that no claims shall be made from this appropria-

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tion which will exceed in aggregate, the fees and collections deposited with the state treasurer to the credit of the general fund for that fiscal year or the appropriation herein provided.

BOARD OF EQUALIZATION

FROM THE GENERAL FUND

For salaries and expenses, one hundred ten thousand seven hundred twenty-four dollars $110,724.00

FROM THE COMMON SCHOOL EQUALIZATION FUND

For salaries and expenses, thirteen thousand dollars ..... $ 13,000.00

FROM THE HIGHWAY FUND

For salaries and expenses, twenty-nine thousand three hundred dollars ..... $ 29,300.00

FROM THE GASOLINE DRAWBACK FUND

For gasoline drawbacks, including refunds to the federal government, as much as may be necessary to comply with the provisions of the law.

DEPARTMENT OF AGRICULTURE, LABOR AND INDUSTRY
ADMINISTRATIVE DEPARTMENT

FROM THE GENERAL FUND

For salaries, eighty-three hundred dollars ..... $ 8,300.00
For operation, repairs and replacements, fifteen hundred eighty-five dollars ..... $ 1,585.00

DAIRY DIVISION

FROM THE GENERAL FUND

For salaries and expenses, twenty-seven thousand three hundred fifty dollars ..... $ 27,350.00

GRAIN GRADING AND SCALE TESTING DIVISION

FROM THE GENERAL FUND

For salaries and expenses, eighty-four thousand seven hundred twenty dollars ..... $ 84,720.00

HORTICULTURE DIVISION

FROM THE GENERAL FUND

For salaries and expenses, seventy thousand two hundred sixty-five dollars ..... $ 70,265.00

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FROM THE HIGHWAY FUND

For salaries and expenses, six thousand dollars .....$ 6,000.00

LABOR DIVISION

FROM THE GENERAL FUND

For salaries and expenses, ten thousand dollars .....$ 10,000.00

REAL ESTATE DIVISION

FROM THE GENERAL FUND

For salaries and expenses, two thousand two hundred thirty-five dollars .....$ 2,235.00

COMMERCIAL FERTILIZER DIVISION

FROM THE GENERAL FUND

For salaries and expenses, three hundred fifty dollars ....$ 350.00

COMMERCIAL FEED DIVISION

FROM THE COMMERCIAL FEED FUND

As much as may be necessary to carry out the law for which this fund was established.

It is further provided, that upon request of the commissioner of agriculture, the state board of examiners may transfer amounts of appropriations not needed between the grain, dairy and horticulture divisions, provided the aggregate total is neither increased or decreased.

PURCHASING AGENT

FROM THE GENERAL FUND

For salaries, eleven thousand three hundred dollars .....$ 11,300.00

For maintenance and repairs of fair grounds, two hundred fifty dollars .....$ 250.00

FROM THE HIGHWAY FUND

For salaries and expenses, thirteen thousand five hundred dollars .....$ 13,500.00

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, five thousand dollars .....$ 5,000.00

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STATE FORESTER ADMINISTRATION

FROM THE GENERAL FUND

For salaries, nine thousand eighty dollars ..... $ 9,080.00

For capital, repairs and replacements, six hundred dollars ..... $ 600.00

For operation, six hundred fifty dollars ..... $ 650.00

PROTECTION OF STATE LANDS

FROM THE GENERAL FUND

For salaries and expenses, twenty thousand three hundred eighty-seven dollars ..... $ 20,387.00

TIMBER SALES

FROM THE GENERAL FUND

For salaries and expenses, fifteen thousand six hundred twenty dollars ..... $ 15,620.00

In addition to the above appropriations for the state forester, there is hereby appropriated all money received from the federal government or trusts to be used for the purposes for which they were provided.

SOIL CONSERVATION COMMITTEE

FROM THE GENERAL FUND

For salaries and expenses, one thousand dollars ..... $ 1,000.00

UNEMPLOYMENT COMPENSATION COMMISSION OF MONTANA

FROM THE GENERAL FUND

For administrative salaries and expenses and for implementing the purpose of section 11-B of Montana unemployment compensation law in opposing federalization, fifteen thousand dollars. ..... $ 15,000.00

FROM THE UNEMPLOYMENT COMPENSATION BENEFIT FUND

So much thereof as may be necessary to comply with the provisions of the law.

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FROM THE MONTANA CASH SICKNESS AND DISABILITY FUND

So much thereof as may be necessary to comply with the provisions of the law.

STATE HIGHWAY PATROL

FROM THE GENERAL FUND

For salaries and expenses, two hundred fifty-five thousand dollars $255,000.00

MOTOR VEHICLE DEPARTMENT

FROM THE MOTOR VEHICLE RECORDING FUND

For salaries and expenses, so much thereof as may be necessary to pay all lawful claims as provided by law.

ATHLETIC COMMISSION

FROM THE VETERANS MEMORIAL FUND

For salaries and expenses, as much as may be necessary to pay all lawful claims as provided by law.

DISTRICT JUDGES

FROM THE GENERAL FUND

For salaries, one hundred ten thousand four hundred dollars $110,400.00

For expenses, twelve thousand six hundred dollars ..... $ 12,600.00

COUNTY ATTORNEYS

FROM THE GENERAL FUND

For salaries, fifty thousand dollars ..... $ 50,000.00

TRANSPORTATION OF PRISONERS

FROM THE GENERAL FUND

For the purpose of paying the expenses of transporting prisoners, nine thousand dollars ..... $ 9,000.00

FIRE INSURANCE

FROM THE GENERAL FUND

As much as may be necessary for premiums on insurance

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on institutions or departments applicable thereto, five thousand dollars ..... $ 5,000.00

FROM THE MILLAGE FUND

As much as may be necessary to pay premiums for insurance on buildings or institutions for the greater university of Montana, five thousand dollars ..... $ 5,000.00

FROM THE HIGHWAY FUND

For premiums on insurance for the highway department, one thousand dollars ..... $ 1,000.00

FROM THE MOTOR RECORDING FUND

For premiums on insurance for the motor vehicle department, one hundred dollars ..... $ 100.00

MONTANA STATE APPRENTICESHIP COUNCIL

FROM THE GENERAL FUND

For operation, one thousand dollars ..... $ 1,000.00

MONTANA TRADE COMMISSION

FROM THE GENERAL FUND

For salaries and expenses, four thousand two hundred fifty dollars ..... $ 4,250.00

STATE LIQUOR CONTROL BOARD

The state liquor control board are hereby authorized to pay all lawful claims from the moneys received from the sale of liquor in the administration of the liquor control act, as provided in Section 2815.153 and 2815.154 Revised Codes of Montana 1935.

BEER DIVISION

FROM THE BEER ACT FUND

There is hereby appropriated as much as may be necessary not exceeding ten per cent (10%) of all revenue received, as provided in Section 2815.50 Revised Codes of Montana 1935.

REGULATORY BOARDS

All regulatory boards for which the law provides for a collection of fees and such fees are deposited with the state treasurer, as trust funds,

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are hereby appropriated for the use of each of the said boards, a sum equal to the amount of their collections, except wherein the law provides for deductions.

Section 4. Provided further, that all appropriations contained herein shall be used for the purposes designated and no other, and the definitions given in section 1 of this act shall govern all appropriations.

Section 5. It is further provided that wherein departments or institutions have appropriations from sources other than the general fund or university millage fund, excepting trust funds wherein a specific law governs, the money from such other sources shall be used when available before using the appropriations from the general fund or university millage fund; provided, however, that such restrictions shall not apply to moneys from special tax on livestock, or to special fees collected on livestock or from livestock owners as provided by law.

Approved March 2, 1945.

HOUSE BILL NO. 326

An Act to Appropriate Money for the Payment of Per Diem to the Officers and Attaches and for the Incidental Expenses of the Twenty-ninth Legislative Assembly of the State of Montana.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums, or so much thereof as may be necessary, be, and the same are hereby appropriated, out of any money in the state treasury, not otherwise appropriated, for the objects and purposes hereinafter expressed, but for no other:

For the payment of per diem to the officers and attaches of the twenty-ninth legislative assembly of the State of Montana,

Thirty-five thousand dollars ..... $ 35,000.00

For the payment of incidental expenses of the twenty-ninth legislative assembly of the State of Montana.

Ten thousand dollars ..... $ 10,000.00

Section 2. The amounts appropriated herein are to be used for the purposes designated. However, if there is a surplus in either of the above items, it may be transferred to the other item appropriated herein for the legislative assembly; provided, the aggregate amount of both appropriations shall be neither increased nor decreased.

Section 3. Appropriations hereinabove provided for shall be deemed and held valid notwithstanding the provisions of the budget act.

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Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved February 22, 1945.

HOUSE BILL NO. 327

An Act to Appropriate Money for the State Department of Public Welfare of the State of Montana for Public Assistance, for Administrative Costs in the State Department and in the County Departments of Public Welfare and for All Other Expenditures Coming Under the State Department of Public Welfare Which They May Lawfully Incur, for the Period Beginning With July 1, 1945 and Terminating With June 30, 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is hereby appropriated for the state department of public welfare of the State of Montana, out of any funds in the state treasury not otherwise appropriated, the sum of two million four hundred sixteen thousand nine hundred twenty ($2,416,920.00), for public assistance, for administrative costs in the state department and the county departments of public welfare and for all other expenditures coming under the state department of public welfare which they may lawfully incur for the fiscal year beginning with July 1, 1945 and terminating with June 30, 1946.

Section 2. Without hereby limiting the powers of the state board of public welfare, as in this act otherwise provided, the amounts appropriated in the foregoing section and paid into the public welfare fund of the state treasury may be expended for the following purposes:

(a) For old age assistance, the sum of one million five hundred forty-six thousand eight hundred dollars ....$ 1,546,800.00

(b) For aid to needy dependent children, the sum of two hundred twenty-nine thousand one hundred twenty dollars .....$ 229,120.00

(c) For aid to needy blind, the sum of sixty-six thousand dollars .....$ 66,000.00

(d) For child welfare services, including all state administrative costs; for care, support and training of exceptional children as defined and provided for in Chapter 142, Session Laws of 1943; and for the payment of compensation for keeping dependent and neglected

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children in approved family foster homes in cases where the county of residence of such children pays one-half the cost of such care the sum of thirty thousand dollars $ 30,000.00

(e) For grants to counties to supplement county poor funds, to be apportioned by the state department of public welfare in inverse proportion to the average taxable valuation per capita, with county population as shown by the 1940 census exclusive of Indians, the sum of two hundred fifty thousand dollars ..... $ 250,000.00

(f) For general relief and contingencies, the sum of twenty-five thousand dollars ..... $ 25,000.00

(g) For payment to persons having silicosis, pursuant to provisions of Chapter 5 of Session Laws of 1941, and for medical examinations, transportation and other related services, the sum of one hundred thirty-five thousand dollars ..... $ 135,000.00

(h) For administrative costs of the state department, not otherwise provided for and including advances of the compensation and expenses of the personnel staff attached to county welfare boards, the sum of one hundred thirty-five thousand dollars ..... $ 135,000.00

Section 3. There is hereby appropriated for the state department of public welfare of the State of Montana out of any funds in the state treasury not otherwise appropriated, the sum of two million four hundred sixteen thousand nine hundred twenty ($2,416,920.00) dollars for public assistance, for administrative costs in the state department and in the county departments of public welfare and for all other expenditures coming under the state department of public welfare which they may lawfully incur for the fiscal year beginning with July 1, 1946, and terminating with June 30, 1947.

Section 4. Without hereby limiting the powers of the state board of public welfare, as in this act otherwise provided, the amounts appropriated in the foregoing section and paid into the public welfare fund of the state treasury may be expended for the following purposes:

(a) For old age assistance, the sum of one million five hundred forty-six thousand eight hundred dollars .... $ 1,546,800.00

(b) For aid to needy dependent children, the sum of two hundred twenty-nine thousand one hundred twenty dollars ..... $ 229,120.00

(c) For aid to needy blind, the sum of sixty-six thousand dollars ..... $ 66,000.00

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(d) For child welfare services, including all state administrative costs; for care, support and training of exceptional children as defined and provided for in Chapter 142, Session Laws of 1943; and for the payment of compensation for keeping dependent and neglected children in approved family foster homes in cases where the county of residence of such children pays one-half the cost of such care, the sum of thirty thousand dollars .....$ 30,000.00

(e) For grants to counties to supplement county poor funds, to be apportioned by the state department of public welfare in inverse proportion to the average taxable valuation per capita, with county population as shown by the 1940 census exclusive of Indians, the sum of two hundred fifty thousand dollars .....$ 250,000.00

(f) For general relief and contingencies, the sum of twenty-five thousand dollars .....$ 25,000.00

(g) For payment to persons having silicosis, pursuant to provisions of Chapter 5 of Session Laws of 1941, and for medical examinations, transportation and other related services, the sum of one hundred thirty-five thousand dollars .....$ 135,000.00

(h) For administrative costs of the state department, not otherwise provided for and including advances of the compensation and expenses of the personnel staff attached to county welfare boards, the sum of one hundred thirty-five thousand dollars .....$ 135,000.00

Section 5. In addition to the foregoing appropriations, there is hereby appropriated for both of the two (2) fiscal years, all balances of prior appropriations unexpended on June 30, 1945, and all funds which may be received from counties as reimbursements for the purposes for which they are designated and any other funds which may be received by the state department of public welfare.

Section 6. Any money hereby appropriated for the state department of public welfare and specified for any account or purpose and not needed for such account or purpose, may be transferred by the state board of public welfare to any other account or purpose under the authority of the department, except that no transfer from items, a, b, c, d, e, f, g, shall be transferred to item "h", administrative costs.

Approved February 24, 1945.

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HOUSE BILL NO. 328

An Act to Appropriate Money for the Operation, Maintenance and Other Purposes for the Water Conservation Board of the State of Montana, for the Period Beginning July 1, 1945 and Ending June 30, 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sums, or so much thereof as may be necessary, be, and the same are hereby appropriated out of any money in the state treasury, and from special funds enumerated herein, not otherwise appropriated, for the purposes hereinafter expressed for the period beginning July 1, 1945 and ending June 30, 1946.

WATER CONSERVATION BOARD

FROM THE GENERAL FUND

For salaries and expenses for administrative purposes, sixty-five thousand dollars ..... $ 65,000.00

For salaries and expenses for the revolving fund, ninety-six thousand seven hundred dollars ..... $ 96,700.00

For betterments and repairs to present projects and additions to existing projects, one hundred seventeen thousand three hundred dollars $117,300.00

For water resource survey study, twenty-one thousand dollars ..... $ 21,000.00

In addition to the above appropriations, all moneys paid or to be repaid the water conservation board from any source, by reason of any previous expenditures made by said board from state funds, are hereby appropriated.

Section 2. That the following sums, or so much thereof as may be necessary, be, and the same are hereby appropriated out of any money in the state treasury, and from special funds enumerated herein, not otherwise appropriated, for the purposes hereinafter expressed for the period beginning July 1, 1946, and ending June 30, 1947.

WATER CONSERVATION BOARD

FROM THE GENERAL FUND

For salaries and expenses for administrative purposes, sixty-five thousand dollars ..... $ 65,000.00

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For salaries and expenses for the revolving fund, ninety-six thousand seven hundred dollars ..... $ 96,700.00

For betterments and repairs to present projects and additions to existing projects, one hundred seventeen thousand three hundred dollars $117,300.00

For water resource survey study, twenty-one thousand dollars ..... $ 21,000.00

In addition to the above appropriations, all moneys paid or to be repaid the water conservation board from any source, by reason of any previous expenditures made by said board from state funds, are hereby appropriated.

Section 3. Appropriations herein above provided shall be deemed and held valid notwithstanding the provisions of the budget act.

Approved March 1, 1945.

HOUSE BILL NO. 330

An Act to Appropriate Money for the Use of the Montana War Council in Carrying Out the Objects and Purposes of Said Council for the Period Beginning July 1, 1945, and Ending June 30, 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That the following sum or so much thereof as shall be found necessary, be, and the same is hereby appropriated out of any money in the state treasury in the general fund of the State of Montana, not otherwise appropriated, for the objects and purposes expressly enumerated hereinafter, for the period beginning July 1, 1945, and ending June 30, 1946.

MONTANA WAR COUNCIL

FROM THE GENERAL FUND

For expenses, ten thousand dollars ..... $ 10,000.00

Section 2. That the following sum or so much thereof as shall be found necessary, be, and the same is hereby appropriated out of any money in the state treasury in the general fund of the State of Montana, not otherwise appropriated, for the objects and purposes expressly enumerated hereinafter, for the period beginning July 1, 1946, and ending June 30, 1947.

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MONTANA WAR COUNCIL

FROM THE GENERAL FUND

For expenses, ten thousand dollars ..... $ 10,000.00

Section 3. The appropriation contained herein shall be held and deemed valid notwithstanding the provisions of the budget act.

Approved February 22, 1945.

HOUSE BILL NO. 332

An Act to Appropriate Money for the Operation, maintenance and Other Purposes, As Designated Herein, for Certain State Institutions, for the Period Beginning July 1, 1945 and Ending June 30, 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purpose of this act, unless otherwise required by the context:

(1) The term "salaries" means the compensation paid in consideration of services rendered to all regularly elected or appointed officers or employees whose duties are of a continuous nature. It does not mean wages or compensation paid in consideration of services rendered to temporary employees and for persons appointed or hired for a period of less than one month, the payment of which is hereby made a proper charge from funds appropriated for "operation".

(2) The term "capital", unless otherwise designated or defined, means all articles, fixtures and goods of a permanent nature, but, in no event, shall the term "capital" mean buildings or purchase of lands, unless specifically defined herein. Store supplies shall have the same limitations.

(3) The term "repairs" means the amount to be paid for the repair of any capital asset, including buildings or lands.

(4) The term "replacements" means the amount to be paid for the replacing of any capital asset, as defined in paragraph (2) above, by the purchase of a new one to take its place by reason of the original being worn out or broken.

(5) The term "operation" means all other expenditures which are necessary for the operation of the department, board, bureau, commission or institution to which the appropriation applies, including wages of employees paid to temporary employees for work not considered of a continuous nature.

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(6) The term "salaries and expenses" means any expense, including salaries, capital, repairs and replacements and operation, as defined above.

(7) The term "expense" means any expense defined above, with the exception of salaries.

(8) The appropriations contained in this act are intended to provide only necessary expenditures for the year for which the appropriation is provided. All claims for such expenditures must be presented for payment not later than thirty (30) days after the close of the fiscal year. Supplies purchased for a succeeding year are in violation of this act. In cases of necessity, appropriations may be used for either year, provided, however, that any unexpended balances at the end of the second year shall revert to the funds from which they were appropriated.

(9) When reference is made herein to any chapter or section of the laws of Montana, said reference shall include any and all laws amendatory thereto.

Section 2. That the following sums, or so much thereof as may be found necessary be and the same are hereby appropriated out of any moneys in the state treasury, and from special funds enumerated herein, not otherwise appropriated, for the objects and purposes hereinafter expressed, for the period beginning July 1, 1945, and ending June 30, 1946.

SCHOOL FOR THE DEAF AND BLIND

FROM THE GENERAL FUND

For salaries and expenses, sixty-eight thousand six hundred eighty-five dollars ..... $ 68,685.00

In addition to the above appropriation there is hereby appropriated all income from land grants and any trust fund which may be received, subject to statutory provisions and obligations of any outstanding bond issues.

STATE ORPHANS' HOME

FROM THE GENERAL FUND

For salaries and expenses, one hundred forty-one thousand dollars $141,000.00

For new milk house and pasteurizer, four thousand dollars ..... $ 4,000.00

In addition to the above appropriations all trust funds are hereby appropriated for the purposes for which said funds are received.

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STATE INDUSTRIAL SCHOOL

FROM THE GENERAL FUND

For salaries and expenses, seventy-six thousand five hundred sixty-seven dollars ..... $ 76,567.00

For pasteurizer, twenty-five hundred dollars ..... $ 2,500.00

In addition to the above appropriations all income from land grants and trust funds which may be received are hereby appropriated, subject to all statutory provisions and obligations of any outstanding bond issues.

STATE VOCATIONAL SCHOOL FOR GIRLS

FROM THE GENERAL FUND

For salaries and expenses, fifty-six thousand dollars ..... $ 56,000.00

For drainage and repairs to buildings, eight thousand dollars ..... $ 8,000.00

In addition to the above appropriations all trust funds which may be received by the institution are hereby appropriated.

STATE PRISON

FROM THE GENERAL FUND

For salaries and expenses, one hundred seventy-eight thousand one hundred dollars $178,100.00

In addition thereto there is hereby appropriated for salaries and expenses, in lieu of earnings, thirty thousand dollars ..... $ 30,000.00 provided, however, that the board of examiners may not authorize claims from this appropriation that exceed in the aggregate amount of earnings deposited with the state treasurer to the credit of the general fund for that fiscal year.

For salary of bandmaster, two thousand dollars ..... $ 2,000.00

For salaries and expenses of the bureau of identification, three thousand dollars ..... $ 3,000.00

In addition to the above all trust funds which may be received are hereby appropriated.

STATE GARMENT FACTORY

FROM THE GENERAL FUND

For salaries and expenses, three thousand forty-eight dollars ..... $ 3,048.00

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LICENSE PLATE FACTORY

FROM THE MOTOR RECORDING FUND

For salaries and expenses, as much as may be necessary to pay lawful claims in the making of license plates, is hereby appropriated.

STATE HOSPITAL

FROM THE GENERAL FUND

For salary of superintendent, seventy-five hundred dollars ..... $ 7,500.00

For salaries of psychiatrists only, twenty-five thousand dollars ..... $ 25,000.00

For other salaries and expenses, seven hundred thirteen thousand nine hundred fifty-one dollars $713,951.00

In addition all trust funds are hereby appropriated subject to statutory provisions.

STATE TUBERCULOSIS SANITARIUM

FROM THE GENERAL FUND

For salaries and expenses, two hundred sixty-three thousand eight hundred ninety-three dollars $263,893.00

In addition all trust funds are hereby appropriated subject to all statutory provisions.

STATE SOLDIERS' HOME

FROM THE GENERAL FUND

For salaries and expenses, forty-two thousand nine hundred eighty-eight dollars ..... $ 42,988.00

For repairing tunnels and heating plant, fifteen hundred dollars ..... $ 1,500.00

In addition to the above appropriations all moneys received from federal assistance and income from land grants are hereby appropriated.

STATE TRAINING SCHOOL

FROM THE GENERAL FUND

For salaries and expenses, one hundred ninety-two thousand eight hundred seventy-two dollars $192,872.00

In addition to the above appropriation there is hereby appropriated eighteen thousand dollars ($18,000.00) for the care of children when

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transferred from Warm Springs, to be used on the basis of the average per capita cost of the state training school.

In addition all trust funds are hereby appropriated subject to all statutory provisions.

Section 3. That the following sums or so much thereof as may be found necessary be and the same are hereby appropriated out of any moneys in the state treasury, and from special funds enumerated herein, not otherwise appropriated, for the objects and purposes hereinafter expressed, for the period beginning July 1, 1946 and ending June 30, 1947.

SCHOOL FOR THE DEAF AND BLIND

FROM THE GENERAL FUND

For salaries and expenses, sixty-eight thousand six hundred eighty-five dollars ..... $ 68,685.00

In addition to the above appropriation there is hereby appropriated all income from land grants and any trust fund which may be received, subject to statutory provisions and obligations of any outstanding bond issues.

STATE ORPHANS' HOME

FROM THE GENERAL FUND

For salaries and expenses, one hundred forty-one thousand dollars $141,000.00

In addition to the above appropriations all trust funds are hereby appropriated for the purposes for which said funds are received.

STATE INDUSTRIAL SCHOOL

FROM THE GENERAL FUND

For salaries and expenses, seventy-six thousand five hundred sixty-seven dollars ..... $ 76,567.00

In addition to the above appropriations all income from land grants and trust funds which may be received are hereby appropriated, subject to all statutory provisions and obligations of any outstanding bond issues.

STATE VOCATIONAL SCHOOL FOR GIRLS

FROM THE GENERAL FUND

For salaries and expenses, fifty-six thousand dollars ..... $ 56,000.00

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In addition to the above appropriation all trust funds which may be received by the institution are hereby appropriated.

STATE PRISON

FROM THE GENERAL FUND

For salaries and expenses, one hundred seventy-eight thousand one hundred dollars $178,100.00

In addition thereto there is hereby appropriated for salaries and expenses, in lieu of earnings, thirty thousand dollars ..... $ 30,000.00

provided, however, that the board of examiners may not authorize claims from this appropriation that exceed in the aggregate the amount of earnings deposited with the state treasurer to the credit of the general fund for that fiscal year.

For salary of bandmaster, two thousand dollars ..... $ 2,000.00

For salaries and expenses of the bureau of identification, three thousand dollars ..... $ 3,000.00

In addition to the above, all trust funds which may be received are hereby appropriated.

STATE GARMENT FACTORY

FROM THE GENERAL FUND

For salaries and expenses, three thousand forty-eight dollars ..... $ 3,048.00

LICENSE PLATE FACTORY

FROM THE MOTOR RECORDING FUND

For salaries and expenses, as much as may be necessary to pay lawful claims in the making of license plates, is hereby appropriated.

STATE HOSPITAL

FROM THE GENERAL FUND

For salary of superintendent, seventy-five hundred dollars ..... $ 7,500.00

For salaries of psychiatrists only, twenty-five thousand dollars ..... $ 25,000.00

For other salaries and expenses, seven hundred thirteen thousand nine hundred fifty-one dollars $713,951.00

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In addition all trust funds are hereby appropriated subject to statutory provisions.

STATE TUBERCULOSIS SANITARIUM

FROM THE GENERAL FUND

For salaries and expenses, two hundred sixty-three thousand eight hundred ninety-three dollars $263,893.00

In addition all trust funds are hereby appropriated subject to all statutory provisions.

STATE SOLDIERS' HOME

FROM THE GENERAL FUND

For salaries and expenses, forty-two thousand nine hundred eighty-eight dollars ..... $ 42,988.00

In addition to the above appropriations all moneys received from federal assistance and income from land grants are hereby appropriated.

STATE TRAINING SCHOOL

FROM THE GENERAL FUND

For salaries and expenses, one hundred ninety-two thousand eight hundred seventy-two dollars $192,872.00

In addition to the above appropriation there is hereby appropriated eighteen thousand ($18,000.00) dollars for the care of children when transferred from Warm Springs, to be used on the basis of the average per capita cost of the state training school.

In addition all trust funds are hereby appropriated subject to all statutory provisions.

Section 4. Provided further, that all appropriations contained herein shall be used for the purposes designated and no other, and the definitions given in section 1 of this act shall govern all appropriations.

Section 5. Appropriations contained herein shall not be used for travel to conventions, teachers' meetings, association meetings or gatherings of like character, wherein the said meetings are held outside of the State of Montana, except by special permission of the state board of examiners who may deem it necessary for attendance on such meetings. The state board of examiners shall spread on their minutes the reasons for their permission.

Section 6. It is further provided that the state's contribution for the teachers' retirement fund, for teachers coming under the retire-

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ment law, is contained in the appropriations for salaries and expenses of the institutions affected and said contribution is hereby authorized to be paid, in the same manner as all other claims, from such appropriations.

Section 7. It is further provided that wherein institutions have appropriations from funds other than the general fund, excepting trust funds wherein a specific law governs, the money from such other sources shall be used, when available, before using the appropriation from the general fund.

Approved March 2, 1945.

HOUSE BILL NO. 333

An Act to Appropriate Money for the Operation and Maintenance and Other Purposes Designated Herein for the Several Units of the Greater University, Known As the State University of Montana, Montana State College, Experiment Station and Sub-stations, Extension Service, Montana School of Mines, Montana State Normal College At Dillon, Eastern Montana Normal School At Billings, and Northern Montana College At Havre, and for Student Fare Refunds for the Period Beginning July 1, 1945 and Ending June 30, 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. For the purpose of this act, unless otherwise required by the context:

(1) The term "salaries" means the compensation paid in consideration of services rendered to all regularly elected or appointed officers or employees whose duties are of a continuous nature. It does not mean wages or compensation paid in consideration of services rendered to temporary employees and for persons appointed or hired for a period of less than one month, the payment of which is hereby made a proper charge from funds appropriated for "operation".

(2) The term "capital", unless otherwise designated or defined, means all articles, fixtures and goods of a permanent nature, but, in no event, shall the term "capital" mean buildings or purchase of lands, unless specifically defined herein. Store supplies shall have the same limitations.

(3) The term "repairs" means the amount to be paid for the repair of any capital asset, including buildings or lands.

(4) The term "replacements" means the amount to be paid for the replacing of any capital asset, as defined in paragraph (2) above, by

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the purchase of a new one to take its place by reason of the original being worn out or broken.

(5) The term "operation" means all other expenditures which are necessary for the operation of the department, board, bureau, commission or institution to which the appropriation applies, including wages of employees paid to temporary employees for work not considered of a continuous nature.

(6) The term "salaries and expenses" means any expense, including salaries, capital, repairs and replacements and operation, as defined above.

(7) The term "expense" means any expense defined above, with the exception of salaries.

(8) The appropriations contained in this act are intended to provide only necessary expenditures for the year for which the appropriation is provided. All claims for such expenditures must be presented for payment not later than thirty (30) days after the close of the fiscal year. Supplies purchased for a succeeding year are in violation of this act. In cases of necessity, appropriations may be used for either year, provided, however, that any unexpended balances at the end of the second year shall revert to the funds from which they were appropriated.

(9) When reference is made herein to any chapter or section of the laws of Montana, said reference shall include any and all laws amendatory thereto.

Section 2. That the following sums, or so much thereof as may be necessary, be, and the same are hereby appropriated out of any money in the state treasury, and from special funds enumerated herein, not otherwise appropriated, for the objects and purposes hereinafter expressed, for the period beginning July 1, 1945 and ending June 30, 1946.

FOR THE MONTANA STATE UNIVERSITY AT MISSOULA

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses including salaries of returning instructors, now on leave, four hundred seventy-six thousand nine hundred forty-eight dollars $476,948.00

For salaries, only for instructors for the business administration and forestry school departments, twenty-five thousand dollars ..... $ 25,000.00

For salaries and expenses for the forest conservation experiment station, five thousand dollars ..... $ 5,000.00

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For capital, repairs and replacements, twenty-two thousand and ninety-five dollars ..... $ 22,095.00

For state's contribution to the teachers' retirement fund, as much as may be necessary, not exceeding, eight thousand one hundred fifty dollars ..... $ 8,150.00

For purchase of parcels of land now used by the university at Missoula, twenty-nine thousand and twenty-one dollars ..... $ 29,021.00

FROM THE GENERAL FUND

In addition to the above appropriations, there is hereby appropriated from the general fund for salaries and expenses, in lieu of fees and collections, one hundred ten thousand dollars $110,000.00
provided, however, that no claims shall be paid from this appropriation that would exceed in the aggregate the amount of fees and collections deposited with the state treasurer to the credit of the general fund for that fiscal year, or the appropriation herein provided.

In addition to the foregoing appropriations, all earnings of the experiment station and all federal funds received or to be received are hereby appropriated for the forest conservation experiment station.

There is hereby appropriated for the use and benefit of the state university, all income from land grants, endowments, trust funds and federal grants which may be received and in addition all balances on hand to be used for the purposes for which such funds were accumulated or given.

FOR THE MONTANA STATE COLLEGE AT BOZEMAN

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, including salaries of returning instructors, now on leave, three hundred twenty-eight thousand dollars $328,000.00

For salaries only for instructors for the chemical engineering and industrial engineering courses, twenty-five thousand dollars ..... $ 25,000.00

For capital, repairs and replacements, and for the purchase of land; thirty-five thousand dollars ..... $ 35,000.00

For state's contribution to the teachers' retirement fund, as much as may be necessary, not exceeding nine thousand dollars ..... $ 9,000.00

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FROM THE GENERAL FUND

In addition to the above appropriations, there is hereby appropriated from the general fund for salaries and expenses, in lieu of fees and collections, one hundred ten thousand dollars $110,000.00

provided, however, that no claims shall be paid from this appropriation that would exceed in the aggregate the amount of fees and collections deposited with the state treasurer to the credit of the general fund for that fiscal year, or the appropriation herein provided.

In addition to the foregoing appropriations, all revenue received as fees or collections for the department of nursing education shall be deposited with the state treasurer in a trust account and the entire amount is hereby appropriated solely for such purpose.

In addition to the above appropriations, there is hereby appropriated for the use of the Montana state college, all income from land grants, endowments, trust funds and federal funds which have been received or will be received for the purposes for which said funds were given.

MONTANA AGRICULTURAL EXPERIMENT STATION

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, including the poultry department and laboratory for animal diseases, one hundred twenty-five thousand dollars $125,000.00

For salaries for returning instructors only, now on leave, ten thousand dollars ..... $ 10,000.00

For state's contribution to the teachers' retirement fund, as much as may be necessary, not exceeding two thousand dollars ..... $ 2,000.00

All moneys collected by the experiment station and animal husbandry department shall be set aside in a special fund, from which fund there is hereby appropriated for the use of the Montana agricultural experiment station so much thereof as may be necessary for the payment of salaries and expenses, including purchase of lands.

In addition to the above appropriations, there is hereby appropriated for the Montana agricultural experiment station, all federal funds and also trust funds.

EXPERIMENTAL SUB-STATIONS OF THE MONTANA AGRICULTURAL EXPERIMENT STATION

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses for each of the following sub-stations and branches:

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Montana grain inspection laboratory, ten thousand dollars ..... $ 10,000.00

Horticulture branch station, eleven thousand seven hundred sixty-five dollars ..... $ 11,765.00

Huntley branch station, two thousand dollars ..... $ 2,000.00

Judith Basin branch station, eleven thousand two hundred fifty dollars ..... $ 11,250.00

Fort Keough range station, two thousand dollars ..... $ 2,000.00

North Montana branch station, seventeen thousand seven hundred dollars ..... $ 17,700.00

In addition to the above appropriations, all moneys collected by the several branches and sub-stations shall be set aside, each in a trust fund and are hereby appropriated as much as may be necessary for the purpose of paying salaries and expenses, including purchase of land.

In addition to the above, there is hereby appropriated all federal funds and trust funds that may be received for either of the sub-stations or branch stations.

EXTENSION SERVICE OF THE MONTANA STATE COLLEGE

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, eighty-five thousand six hundred eighty-nine dollars ..... $ 85,689.00

For state's contribution to the teachers' retirement fund, as much as may be necessary, not exceeding five hundred dollars ..... $ 500.00

FROM THE GENERAL FUND

In addition to the above appropriations, there is hereby appropriated from the general fund for salaries and expenses, in lieu of fees and collections, twenty-five hundred dollars ..... $ 2,500.00

provided, however, that no claims shall be paid from this appropriation that will exceed in the aggregate the fees and collections deposited with the state treasurer in the general fund in that fiscal year, or the appropriation herein provided.

MONTANA SCHOOL OF MINES AT BUTTE

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, ninety-six thousand six hundred thirty dollars ..... $ 96,630.00

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For salaries for returning instructors only, now on leave, ten thousand dollars ..... $ 10,000.00

For state's contribution to the teachers' retirement as much as may be necessary not exceeding three thousand dollars ..... $ 3,000.00

FROM THE GENERAL FUND

There is hereby appropriated from the general fund for salaries and expenses, in lieu of fees and collections, ten thousand dollars ..... $ 10,000.00
provided, however, that no claims shall be paid from this appropriation that would exceed in the aggregate the amount of fees and collections deposited with the state treasurer to the credit of the general fund for that fiscal year, or the appropriation herein provided.

In addition to the above appropriations, there is hereby appropriated for the school of mines, all income from land grants, endowments, trust funds, and all federal funds to be used for the purposes for which said funds were received.

BUREAU OF MINES AND GEOLOGY OF THE SCHOOL OF MINES

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, twenty-five thousand dollars $ 25,000.00

STATE NORMAL COLLEGE AT DILLON

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, thirty-five tho sand dollars .... $ 35,000.00

For salaries for returning instructors only, now on leave, twenty thousand dollars ..... $ 20,000.00

For state's contribution of teachers' retirement fund, as much as may be necessary, not exceeding fifteen hundred dollars ..... $ 1,500.00

FROM THE GENERAL FUND

In addition to the above appropriations, there is hereby appropriated from the general fund for salaries and expenses, in lieu of fees and collections, five thousand dollars $ 5,000.00
provided, however, that no claims shall be paid from this appropriation that will exceed in the aggregate the fees and collections deposited with the state treasurer in the general fund in that fiscal year, or the appropriation herein provided.

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In addition to the above appropriation there is hereby appropriated, one-half (½) of all income from land grants, all endowments and trust funds subject to all statutory provisions.

EASTERN MONTANA NORMAL SCHOOL AT BILLINGS

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, seventy-six thousand five hundred dollars ..... $ 76,500.00

For state's contribution to the teachers' retirement fund, as much as may be necessary, not exceeding, two thousand dollars ..... $ 2,000.00

FROM THE GENERAL FUND

In addition to the above appropriations, there is hereby appropriated from the general fund for salaries and expenses, in lieu of fees and collections, six thousand dollars $ 6,000.00 provided, however, that no claims shall be paid from this appropriation that will exceed in the aggregate the fees and collections deposited with the state treasurer in the general fund in that fiscal year, or the appropriation herein provided.

In addition to the above appropriation there is hereby appropriated, one-half (½) of all income from land grants, all endowments and trust funds subject to all statutory provisions.

NORTHERN MONTANA COLLEGE AT HAVRE

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, one hundred twenty-three thousand dollars $123,000.00

For state's contribution to the teachers' retirement fund, as much as may be necessary, not exceeding, two thousand dollars ..... $ 2,000.00

FROM THE GENERAL FUND

In addition to the above appropriations, there is hereby appropriated from the general fund for salaries and expenses, in lieu of fees and collections, ten thousand dollars $ 10,000.00 provided, however, that no claims shall be paid from this appropriation that will exceed in the aggregate the fees and collections deposited with the state treasurer in the general fund in that fiscal year, or the appropriation herein provided.

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In addition to each of the above appropriations, there is also hereby appropriated, all trust funds and federal funds that may be received, to be used for the purposes to which they are given.

STUDENT TRAVEL REFUNDS

FROM THE UNIVERSITY MILLAGE FUND

To equalize the traveling fare of students in attendance upon any of the institutions of the greater university of Montana, two thousand dollars ..... $ 2,000.00

Section 3. That the following sums, or so much thereof as may be necessary, be, and the same are hereby appropriated out of any money in the state treasury, and from special funds enumerated herein, not otherwise appropriated, for the objects and purposes hereinafter expressed, for the period beginning July 1, 1946 and ending June 30, 1947.

FOR THE MONTANA STATE UNIVERSITY AT MISSOULA

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, including salaries of returning instructors, now on leave, five hundred nine thousand nine hundred twenty-three dollars $509,923.00

For salaries, only for instructors for the business administration and forestry school departments, twenty-five thousand dollars ..... $ 25,000.00

For salaries and expenses for the forest conservation experiment station, five thousand dollars ..... $ 5,000.00

For capital, repairs and replacements, eighteen thousand eight hundred eighty-five dollars ..... $ 18,885.00

For state's contribution to the teachers' retirement fund, as much as may be necessary, not exceeding, eight thousand seven hundred fifty dollars ..... $ 8,750.00

FROM THE GENERAL FUND

In addition to the above appropriations, there is hereby appropriated from the general fund for salaries and expenses, in lieu of fees and collections, one hundred ten thousand dollars $110,000.00

provided, however, that no claims shall be paid from this appropriation that would exceed in the aggregate the amount of fees and collections deposited with the state treasurer to the credit of the general fund for that fiscal year, or the appropriation herein provided.

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In addition to the foregoing appropriations, all earnings of the experiment station and all federal funds received or to be received are hereby appropriated for the forest conservation experiment station.

There is hereby appropriated for the use and benefit of the state university, all income from land grants, endowments, trust funds and federal grants which may be received and in addition all balances on hand to be used for the purposes for which such funds were accumulated or given.

FOR THE MONTANA STATE COLLEGE AT BOZEMAN

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, including salaries of returning instructors, now on leave, three hundred sixty-three thousand six hundred dollars $363,600.00

For salaries only for instructors for the chemical engineering and industrial engineering courses, twenty-five thousand dollars ..... $ 25,000.00

For capital, repairs and replacements, and for the purchase of land, thirty-five thousand dollars ..... $ 35,000.00

For state's contribution to the teachers' retirement fund, as much as may be necessary, not exceeding, nine thousand dollars ..... $ 9,000.00

FROM THE GENERAL FUND

In addition to the above appropriations, there is hereby appropriated from the general fund for salaries and expenses, in lieu of fees and collections, one hundred ten thousand dollars $110,000.00
provided, however, that no claims shall be paid from this appropriation that would exceed in the aggregate the amount of fees and collections deposited with the state treasurer to the credit of the general fund for that fiscal year, or the appropriation herein provided.

In addition to the foregoing appropriations, all revenue received as fees or collections for the department of nursing education shall be deposited with the state treasurer in a trust account and the entire amount is hereby appropriated solely for such purpose.

In addition to the above appropriations, there is hereby appropriated for the use of the Montana state college, all income from land grants, endowments, trust funds and federal funds which have been received or will be received for the purposes for which said funds were given.

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MONTANA AGRICULTURAL EXPERIMENT STATION

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, including the poultry department and laboratory for animal diseases, one hundred thirty-one thousand dollars $131,000.00

For salaries for returning instructors only, now on leave, ten thousand dollars ..... $ 10,000.00

For state's contribution to the teachers' retirement fund, as much as may be necessary, not exceeding, two thousand dollars ..... $ 2,000.00

All moneys collected by the experiment station and animal husbandry department shall be set aside in a special fund, from which fund there is hereby appropriated for the use of the Montana agricultural experiment station so much thereof as may be necessary for the payment of salaries and expenses, including purchase of lands.

In addition to the above appropriations, there is hereby appropriated for the Montana agricultural experiment station, all federal funds and also trust funds.

EXPERIMENTAL SUB-STATIONS OF THE MONTANA AGRICULTURAL EXPERIMENT STATION

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses for each of the following sub-stations and branches:

Montana grain inspection laboratory, ten thousand dollars ..... $ 10,000.00

Horticulture branch station, eleven thousand seven hundred sixty-five dollars ..... $ 11,765.00

Huntley branch station, two thousand dollars ..... $ 2,000.00

Judith Basin branch station, eleven thousand two hundred fifty dollars 11,250.00

Fort Keough range station, two thousand dollars ..... $ 2,000.00

North Montana branch station, seventeen thousand seven hundred dollars ..... $ 17,700.00

In addition to the above appropriations, all moneys collected by the several branches and sub-stations shall be set aside, each in a trust fund and are hereby appropriated as much as may be necessary, for the purpose of paying salaries and expenses, including purchase of land.

In addition to the above, there is hereby appropriated all federal

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funds and trust funds that may be received for either of the sub-stations or branch stations.

EXTENSION SERVICE OF THE MONTANA STATE COLLEGE

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, eighty-nine thousand and sixty-four dollars ..... $ 89,064.00

For state's contribution to the teachers' retirement fund, as much as may be necessary, not exceeding, five hundred dollars ..... $ 500.00

FROM THE GENERAL FUND

In addition to the above appropriations, there is hereby appropriated from the general fund for salaries and expenses, in lieu of fees and collections, twenty-five hundred dollars ..... $ 2,500.00
provided, however, that no claims shall be paid from this appropriation, that will exceed in the aggregate the fees and collections deposited with the state treasurer in the general fund in that fiscal year, or the appropriation herein provided.

MONTANA SCHOOL OF MINES AT BUTTE

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, ninety-six thousand six hundred thirty dollars ..... $ 96,630.00

For salaries for returning instructors only, now on leave, ten thousand dollars ..... $ 10,000.00

For state's contribution to the teachers' retirement as much as may be necessary, not exceeding, three thousand dollars ..... $ 3,000.00

FROM THE GENERAL FUND

There is hereby appropriated from the general fund for salaries and expenses, in lieu of fees and collections, ten thousand dollars ..... $ 10,000.00
provided, however, that no claims shall be paid from this appropriation that would exceed in the aggregate the amount of fees and collections deposited with the state treasurer to the credit of the general fund for that fiscal year, or the appropriation herein provided.

In addition to the above appropriations, there is hereby appro-

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priated for the school of mines, all income from land grants, endowments, trust funds and all federal funds to be used for the purposes for which said funds were received.

BUREAU OF MINES AND GEOLOGY
OF THE SCHOOL OF MINES

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, twenty-five thousand dollars $ 25,000.00

STATE NORMAL COLLEGE AT DILLON

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, fifty-six thousand dollars .....$ 56,000.00

For salaries for returning instructors only, now on leave, twenty-five thousand dollars .....$ 25,000.00

For state's contribution of teachers' retirement fund, as much as may be necessary, not exceeding, fifteen hundred dollars .....$ 1,500.00

FROM THE GENERAL FUND

In addition to the above appropriations, there is hereby appropriated from the general fund for salaries and expenses, in lieu of fees and collections, six thousand dollars $ 6,000.00 provided, however, that no claims shall be paid from this appropriation, that will exceed in the aggregate the fees and collections deposited with the state treasurer in the general fund in that fiscal year, or the appropriation herein provided.

In addition to the above appropriation there is hereby appropriated, one-half (½) of all income from land grants, all endowments and trust funds subject to all statutory provisions.

EASTERN MONTANA NORMAL SCHOOL AT BILLINGS

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, eighty-six thousand five hundred dollars .....$ 86,500.00

For state's contribution to the teachers' retirement fund, as much as may be necessary, not exceeding, two thousand dollars .....$ 2,000.00

FROM THE GENERAL FUND

In addition to the above appropriations, there is hereby

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appropriated from the general fund for salaries and expenses, in lieu of fees and collections, ten thousand dollars $ 10,000.00
provided, however, that no claims shall be paid from this appropriation that will exceed in the aggregate the fees and collections deposited with the state treasurer in the general fund in that fiscal year, or the appropriation herein provided.

In addition to the above appropriation, there is hereby appropriated one-half (½) of all income from land grants, all endowments and trust funds subject to all statutory provisions.

NORTHERN MONTANA COLLEGE AT HAVRE

FROM THE UNIVERSITY MILLAGE FUND

For salaries and expenses, one hundred twenty-eight thousand dollars $128,000.00

For state's contribution to the teachers' retirement fund, as much as may be necessary, not exceeding, two thousand dollars .....$ 2,000.00

FROM THE GENERAL FUND

In addition to the above appropriations, there is hereby appropriated from the general fund for salaries and expenses, in lieu of fees and collections, ten thousand dollars $ 10,000.00
provided, however, that no claims shall be paid from this appropriation that will exceed in the aggregate the fees and collections deposited with the state treasurer in the general fund in that fiscal year, or the appropriation herein provided.

In addition to each of the above appropriations, there is also hereby appropriated, all trust funds and federal funds that may be received, to be used for the purposes to which they are given.

STUDENT TRAVEL REFUNDS

FROM THE UNIVERSITY MILLAGE FUND

To equalize the traveling fare of students in attendance upon any of the institutions of the greater university of Montana, two thousand dollars .....$ 2,000.00

Section 4. The appropriations contained herein shall only be used for the purposes designated, nor shall they be interchangeable and all appropriations provided herein are subject to the definitions appearing in section 1, of this act. In the event any institution, department, station or service, or other division receives specific appropriations

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from sources other than the university millage fund, or the general fund, excepting trust funds governed by specific provisions of law, the money from such other sources shall be used to the extent lawfully available, before resorting to the appropriations from the university millage fund, or the general fund, but in no event shall they be used for purposes other than that for which they were received.

Section 5. The appropriations contained herein shall not be used for travel to conventions, teachers' meetings, association meetings, or gatherings of like character, wherein said meetings are held outside the State of Montana, except by special permission of the state board of examiners, obtained in advance.

Approved March 2, 1945.

HOUSE JOINT MEMORIAL NO. 1

A Joint Memorial of the House of Representatives and Senate of the State of Montana, to the President of the United States, the Honorable Harold L. Ickes, Secretary of the Department of the Interior, the Congress of the United States, United States Senators B. K. Wheeler, James E. Murray, Representative Mike Mansfield, All of Washington, D. C., Opposing the Establishment of a Missouri Valley Authority, So Far Proposed or Any Similar Delegation of Governmental Power and Requesting That the Missouri Basin Development and Operation of Such Development Be Carried On by the United States Army Engineers and the United States Bureau of Reclamation Under Such Plans of Unified or Joint Representation As May Be Decided by Congress.

WHEREAS, there has been and is proposed legislation in the congress of the United States which would create a so-called Missouri valley authority covering the waters of the Missouri basin; and

WHEREAS, the waters of such Missouri basin originate in and adjacent to the State of Montana, and such waters are of vital importance and necessary to the stabilization of the agricultural and livestock industries of this state, and to the welfare and prosperity of the inhabitants thereof; and

WHEREAS, such Missouri river basin waters are of great value to the welfare and prosperity of the people of Montana because such waters should be used for the production of cheap and plentiful hydroelectric power for use in rural electrification projects and industry to the end that Montana may enjoy the benefits of such power by increasing agricultural and industrial production, thereby furnishing employ-

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ment and providing homes and business enterprise for our returning soldiers,

WHEREAS, the fact of the importance of such waters to the people of the State of Montana, and to the welfare and prosperity of said state has long been recognized with the consequences that studies relating to the proper utilization of soil and water resources have been made by the United States bureau of reclamation and by the United States army engineers, and such plans have been co-ordinated in detail following such studies, which plans would result in great benefit to the people of the State of Montana from the standpoint of the use of such waters for the purposes of agriculture and great benefit would result to the inhabitants of states within the basin by reason of flood control and navigation which would follow such proposed development; and

WHEREAS, said army engineers and said bureau of reclamation are departments of long standing in the United States government, and have demonstrated their complete competence to undertake and carry forward the programs which have been outlined by them; and

WHEREAS, the inhabitants of the State of Montana have long since acquired property rights and interests in the waters of said Missouri basin by reason of the ownership of water rights which are appurtenant to the land and without which such land to which such water rights are appurtenant would be rendered of little or no value; and

WHEREAS, the program of the bureau of reclamation and of the army engineers is compatible with such recognized water rights and with the normal processes of government; and

WHEREAS, the authority and bureau to be created by said proposed Missouri valley authority are inconsistent and incompatible with said rights of ownership and with the regularly constituted forms of government under which we operate; and

WHEREAS, there is a growing tendency in the federal government of the United States to encroach upon the rights originally reserved to the respective states, and to impose centralized government regulations and authorities in place of local government as contemplated under the constitution of the United States and the constitution of the State of Montana, and to usurp the powers, privileges and rights of the various states of the United States, including the State of Montana.

NOW, THEREFORE, be it resolved by the twenty-ninth legislative session of the State of Montana, the senate and house of representatives concurring, that we are opposed to the passage by the congress of the United States of said Missouri valley authority legislation so far

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proposed or any similar delegation of governmental power, and that we favor the development of said Missouri basin through such coordinated plans as have been developed by the bureau of reclamation and the army engineers; and that not only should the planning and construction of such projects be intrusted to the corps of army engineers and the bureau of reclamation in their respective fields according to their agreed plans, but the management, operation and control of all the projects of such unified and integrated plans should also remain in the same agencies working as joint operators or managers under such plans of unified or joint representation as may be directed by congress, and that in any plans, means should be provided for the appropriate participation of state and local interests.

BE IT FURTHER RESOLVED, that copies of this joint memorial be forwarded to the president of the United States, to the Honorable Harold L. Ickes, secretary of the department of the interior, to the congress of the United States, to United States Senators B. K. Wheeler and James E. Murray, to Representative Mike Mansfield, all of Washington, D. C.

Approved February 25, 1945.

HOUSE JOINT MEMORIAL NO. 2

A Joint Memorial to the Congress of the United States Petitioning Congress for a Resurvey of the Present Old Age and Survivors Insurance System With a View to Expanding Coverage and Increasing the Benefit Structures Thereof.

WHEREAS, after eight years operation the old age and survivors insurance program, managed by the social security board, grants to workers retired at the age of 65 years, average allowances of twenty-four ($24.00) dollars per month; and,

WHEREAS, any benefits under the old age and survivors insurance program are limited to those retired persons who have had past employment in only certain industries; and,

WHEREAS, cash reserves for old age and survivors insurance now amount to five billions of dollars, and five ($5.00) dollars is now being collected from workers and their employers for each dollar paid in benefits to retired workers or their survivors.

NOW, THEREFORE, BE IT RESOLVED by the twenty-ninth legislative session of the State of Montana, the senate and house of representatives concurring, that we respectfully petition the congress of the United States to cause to be made a resurvey of the present old

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age and survivors insurance program, and the entire taxation structure applicable thereto, with a view to expanding coverage to include workers not presently covered; to increasing benefits to provide reasonable security to workers in their old age and extending coverage on a voluntary basis, for a minimum of protection, to the self-employed and local public employees willing to pay both employer and employee contributions, to join the system, meeting where desired all payments for past years to obtain greater protection, and

BE IT FURTHER RESOLVED THAT: The chief clerk of the house of representatives be directed to mail copies of this resolution to the Honorable Burton K. Wheeler, Honorable James E. Murray, senators from Montana, the Honorable Mike Mansfield, representative in congress, the honorable president of the United States senate and the honorable speaker of the house of representatives of the congress of the United States and to John J. Altmeyer, chairman of the social security board in Washington, D. C.

Approved February 8, 1945.

HOUSE JOINT MEMORIAL NO. 3

A Joint Memorial to the Congress of the United States Requesting Legislation to Curb Activities of Conscientious Objectors and Associations of Conscientious Objectors in Obtaining Large Tracts of Land in the United States and in Avoiding Income and Other Taxes.

To the Honorable Senate and House of Representatives of the United States of America:

WHEREAS, the United States of America is now engaged in a national emergency to protect and defend the liberties guaranteed by the constitution of the United States of America; and

WHEREAS, millions of the youth of America are engaged in terrific struggles and thousands have made and will make the supreme sacrifice for the purpose of preserving our democratic form of government; and

WHEREAS, there exists in this country large associations of persons, who, under the guise of religious organizations insist upon their members of military age making claim as conscientious objectors and thereby, as in some cases, work of national importance; and

WHEREAS, great numbers of other persons of military age have even refused to perform any work or service whatsoever for the protection of our form of government; and

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WHEREAS, large groups of persons claiming to be members of these religious sects who have been, and still are, acquiring lands in the State of Montana and elsewhere in the United States, and as we are informed pay no income tax on account of their religious set-up, such religious groups or sects colonizing large tracts of land with other groups attempting to come into the United States from Canada and elsewhere, all of which will militate against the right of the boys in service to be able to acquire decent farming lands upon their return from the service;

WHEREAS, it is the settled convictions of the legislative assembly that action should be taken in this respect.

NOW, THEREFORE, this legislative assembly does respectfully request and suggest that the congress at the earliest practicable date enact suitable legislation which will have the following effect:

1. Providing that any so-called conscientious objector who refused under the pretense of religious convictions to fight for this country or to do any work of national importance be deprived of the right to own or acquire any real property within the confines of the United States, beyond a limited amount.

2. That no association of persons whose tenents forbid the right of members of military age to aid or assist in the war effort which may now or at any time hereafter confront this country be permitted to acquire any further tracts of land in this country.

3. That the income tax laws of the United States be amended to the end that such associations shall pay income taxes to the same extent that other citizens of the United States shall pay.

Approved February 22, 1945.

HOUSE JOINT MEMORIAL NO. 4

A Joint Memorial to the Congress of the United States Petitioning for An Increase of Twenty-five Per Cent (25%) in the Amount of Payment Made By the United States Government to Counties from Income Received from Lands Purchased By the United States Government Under the Bankhead-Jones Act.

WHEREAS, the government of the United States has purchased the lands of a sub-marginal nature and class; and,

WHEREAS, such lands purchased by the government have been removed from the tax rolls and the county and state deprived of the taxes, such lands would automatically bring to the county as revenue; and,

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WHEREAS, the government of the United States now returns to the county twenty-five per cent (25%) of the revenue derived from the rentals of such land; and,

WHEREAS, the amount received under the plan and law now in force and effect is not of an amount sufficient to replace the revenue formerly derived through taxation.

NOW, THEREFORE, BE IT RESOLVED by the twenty-ninth legislative session of the State of Montana, the senate and house of representatives concurring, that we respectfully petition the congress of the United States to increase the amount allotted to the respective counties from twenty-five per cent (25%) to fifty per cent (50%).

BE IT FURTHER RESOLVED THAT: The chief clerk of the house be directed to mail copies of this resolution to the Honorable Burton K. Wheeler, Honorable James E. Murray, senators from Montana and the Honorable Mike Mansfield, representative in congress.

Approved February 20, 1945.

HOUSE JOINT MEMORIAL NO. 5

A Joint Memorial of the House of Representatives and Senate of the State of Montana to the Men and Women from the State of Montana Now Serving or Who Have Served in the Armed Forces of the United States During World War Two.

WHEREAS, many thousands of young men and young women of the State of Montana are serving or have at some period served in the armed services of the United States during the present world conflict; and,

WHEREAS, these young men and young women have by their services, expressed their fullest devotion to the institutions of this republic and exhibited heroism of a character to command the pride and undying gratitude of all the citizens of this state; and,

WHEREAS, the twenty-ninth legislative assembly taking cognizance of these services, desires to manifest its deep appreciation of the sacrifices made by these sons and daughters of Montana, now therefore;

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND SENATE OF THE STATE OF MONTANA that they do hereby convey to each and every one of them and to the parents, relatives and friends of those who have paid the supreme price for their devo-

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tion to their country, their everlasting admiration for their heroic endeavors, and thankfulness for the part they have played and are playing, for the glory of our state and the honor of their country.

Approved March 5, 1945.

HOUSE JOINT RESOLUTION NO. 1

A Joint Resolution to the State Highway Commission of the State of Montana, Requesting the Highway Commission to Make Examination and Survey Preliminary to the Location for the Construction of Highway Bridges Over the Missouri River in the State of Montana.

To the Honorable, the State Highway Commission of the State of Montana:

WHEREAS, there is present and increasing need of highway bridges over the Missouri river in the State of Montana; and

WHEREAS, the next session of the legislature of the State of Montana may be interested in providing for the construction of such bridges;

THEREFORE, BE IT RESOLVED, by the house of representatives of the State of Montana, the senate concurring,

THAT the state highway commission of the State of Montana be hereby requested to make the necessary examinations and surveys preliminary to the location for construction of highway bridges over the Missouri river in the State of Montana, as follows:

At a crossing of the Missouri river at Poplar, Montana, or Brockton, Montana, or at some point between Poplar and Brockton, Montana:

At a crossing of the Missouri river on the state line between the State of Montana and the State of North Dakota, at or near the site of Fort Union.

At a crossing of the Missouri river connecting Chinook and Havre with Lewistown.

At a crossing of the Missouri river connecting Big Sandy with Lewistown.

Such preliminary surveys, data, and estimates of cost, and any other desirable information herein requested whether on file or acquired, to be submitted to the thirtieth session of the legislature of the State of Montana, on or before the twenty-fifth day of January, 1947.

Approved February 2, 1945.

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HOUSE JOINT RESOLUTION NO. 3

A Joint Resolution Commending the War Department and Navy Department for Instituting and Putting Into Operation the Program of Extending Furloughs and Leaves to Our Citizens Serving As Soldiers, Sailors and Marines Who Have Served the Longest Period of Time Overseas or in Naval Combat Zones.

WHEREAS, a great number of the young citizens of the State of Montana have been actively engaged in combat zones on land and sea with the army, navy and marines of the United States of America; and

WHEREAS, some of these citizens have been in such zones for a long time; and

WHEREAS, the various branches of our military service have inaugurated and put into operation a program of extending furloughs and leaves to those who have spent the longest service in such combat zones; and

WHEREAS, under such program many of our Montana citizens in such services who have been gone for a long period of time have had the opportunity to return to their homes and see their loved ones;

NOW, THEREFORE, BE IT RESOLVED by the twenty-ninth legislative assembly of the State of Montana. that we highly commend our military services for inaugurating and putting into operation the program of extending furloughs and leaves home to the citizens of our and other states who have served the longest period of time in combat zones, and sincerely request and pray that such program be continued.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the following: Secretary of war, secretary of the navy, Hon. B. K. Wheeler, Hon. James E. Murray and Hon. Mike Mansfield.

Approved February 15, 1945.

HOUSE JOINT RESOLUTION NO. 4

A Joint Resolution to the Congress of the United States to Initiate Proper Action for the Immediate Admission of Alaska As a State.

WHEREAS, realizing the crucial importance of Alaska to the defense of our country; and

WHEREAS, being ever increasingly aware of her matchless natural resources and of the growing community of interest between that territory and the United States of America but more particularly with the State of Montana; and

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WHEREAS, we have observed the highly successful and uninterrupted operation of communications and transportation between Montana and Alaska, both by highway and air; and

WHEREAS, appreciating the difficulties of administration under existing conditions or under legislation now before the congress;

NOW, THEREFORE, BE IT RESOLVED, by the house of representatives of the twenty-ninth legislative assembly of the State of Montana, the senate concurring, that the congress of the United States of America is urged to initiate proper action for the immediate admission of Alaska as a state.

BE IT FURTHER RESOLVED, that copies hereof, duly authenticated, be forwarded to the president of the United States, to the senators and representatives from the State of Montana in the congress, to the territorial governor of Alaska and to the delegate from Alaska in the congress.

Approved February 21, 1945.

HOUSE JOINT RESOLUTION NO. 5

A Joint Resolution Recognizing and Adopting the Song, Inclusive of Lyrics and Music, "Montana" As the Official State Song of Montana, and Providing for Its Orchestration and Band Arrangements By the University of Montana and for the Use of the Song On State Occasions and By Montana Institutions and Citizens.

Be it Resolved by the House of Representatives of the Twenty-ninth Legislative Assembly of the State of Montana, the Senate Concurring:

WHEREAS, the song, "MONTANA" in which the lyrics were written by the Montana poet, Charles Cleveland Cohan, until his death a distinguished member of the Montana press, and for which the melody was provided by Joseph E. Howard, one of America's most noted musical composers and artists, was first published in the year 1910, and shortly thereafter was named the official state song of Montana by Hon. Edwin L. Norris, then governor of the State of Montana; and,

WHEREAS, the song has by long usage by citizens of Montana of all ages, become popularly recognized throughout the state as the song of all the people of Montana, and its words and music are dear to the hearts of Montana citizens, and have been carried throughout the earth wherever Montanans gather, and the copyright of the song is now owned by Montana children's home and hospital, a charitable institu-

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tion of the State of Montana, which has consented, without reservation, to the legislative adoption of the song as the official state song of Montana, and the music department of the university of Montana is desirous of perfecting orchestration and band arrangements of the song for use throughout the state, and leaders in the music field have pronounced the song admirably adopted for such purposes:

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE TWENTY-NINTH LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA, THE SENATE OF SAID ASSEMBLY CONCURRING, that the song, "MONTANA", inclusive of lyrics and music, as said lyrics were written by Charles Cleveland Cohan and the music by Joseph E. Howard, as hereinafter set forth, shall be, and the same is hereby adopted as the official state song of the State of Montana.

BE IT FURTHER RESOLVED that the university of Montana, through its music department, is requested to undertake and carry out an orchestration of said song and band arrangements thereof, and generally to aid and cooperate with Montana citizens desirous of using said song, as such, or in orchestra and band arrangements; and that the citizens of the state may use and refer to said song on state occasions, or otherwise, when appropriate, as the official state song of Montana.

BE IT FURTHER RESOLVED that the lyrics of said song are now identified as follows:

First verse:

Tell me of that Treasure State
Story always new,
Tell of its beauties grand
And its hearts so true.
Mountains of sunset fire
The land I love the best
Let me grasp the hand of one
From out the golden West.

Second verse:

Each country has its flow'r;
Each one plays a part,
Each bloom brings a longing hope
To some lonely heart,
Bitter Root to me is dear
Growing in my land
Sing then that glorious air
The one I understand.

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Refrain or chorus:
Montana, Montana, Glory of the West
Of all the states from coast to coast,
You're easily the best
Montana, Montana, where skies are always blue
M-O-N-T-A-N-A, Montana, I love you.

BE IT FURTHER RESOLVED that a copy of this resolution, with said song attached, and by this reference made a part of this resolution, as the said song is now published, shall be filed in the office of the secretary of state of the State of Montana.

Approved February 20, 1945.

HOUSE JOINT RESOLUTION NO. 7

A Joint Resolution to the State Board of Examiners of the State of Montana, the State Board of Commissioners for the Insane, the State Board of Education, and the Executive Board Having the Immediate Direction and Control of the Montana State Training School Located at Boulder, Montana, Requesting Such Boards and the Members Thereof to Give Immediate Study to the Report and Findings of the Subcommittee on Custodial Institutions of the Committee on Appropriations of the Twenty-ninth Legislative Assembly to the End That Immediate Action May Be Had Relative to the Broadening of Present Plans for the Future Development for Betterment of Conditions at the State Hospital for the Insane, the Location of Prospective Suitable Building Sites, the Proper Care and Hospitalization of Its Patients, the Acquisition of Suitable and Necessary Farm Lands for the Support Thereof, If Found to Be Necessary; Relating to the Segregation of the Aged and Senile from the Mentally Incompetent; and Regarding the Necessity of Moving Children Now Located in the State Hospital for the Insane At Warm Springs, Montana, to the Montana State Training School At Boulder, Montana.

To the Honorable the State Board of Examiners of the State of Montana, the State Board of Commissioners for the Insane, the State Board of Education, and the Executive Board Having the Immediate Direction and Control of the Montana State Training School Located At Boulder, Montana:

WHEREAS, the twenty-sixth legislative assembly of the State of Montana did pass an act authorizing the sale of bonds in the amount of five hundred thousand dollars ($500,000.00) for the purpose of constructing, repairing, and equipping of necessary buildings and pro-

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viding for other permanent improvements and acquisition of necessary grounds for the Montana state hospital for the insane located at Warm Springs, Montana; and

WHEREAS, the subcommittee on custodial institutions of the committee on appropriations of this the twenty-ninth legislative assembly did make and file its report with this assembly relative to present conditions at the state hospital for the insane and relative to the advisability of further expanding such facilities; and

WHEREAS, it now appears that further study should be made to expand the facilities for the proper care and support of the unfortunate incompetent and insane people at such hospital; and

WHEREAS, there is a co-mingling of aged and senile persons, in said institution with mentally incompetent and insane persons; and

WHEREAS, it appears that there are a number of mentally incompetent and insane children located and cared for in the state hospital for the insane at Warm Springs when they could better be located and cared for in the Montana state training school located at Boulder, Montana;

NOW, THEREFORE, BE IT RESOLVED by the house of representatives of the State of Montana, the senate concurring, that the state board of examiners of the State of Montana and the state board of commissioners for the insane do give immediate study to the report and findings of the subcommittee on custodial institutions of the committee on appropriations of the twenty-ninth legislative assembly to the end that immediate action may be had relative to broadening the present plans for the future development and betterment of conditions at the state hospital for the insane, the location of prospective suitable building sites, the proper care and hospitalization of its patients, the acquisition of suitable and necessary farm lands for the support thereof, if such acquisition shall be found to be necessary, and for the general expansion of facilities for these unfortunate people wherever such facilities may be located or found to be suitable;

BE IT FURTHER RESOLVED that the management of the state hospital for the insane at Warm Springs, Montana, be urged to do all things necessary and reasonable at this time for as complete a segregation as possible of aged and senile persons from incompetent and insane persons now located in such institution;

BE IT FURTHER RESOLVED that the state board of examiners, the state board of commissioners for the insane, the state board of education, and the executive board having the immediate direction and control of the Montana state training school located at Boulder, Mon-

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tana, make an immediate study relative to the advisability of moving all incompetent and insane children now located at the state hospital for the insane at Warm Springs, Montana, to the Montana state training school at Boulder, Montana, thereby segregating more completely the children now located in the state hospital for the insane from the incompetent and insane adults in such institution.

Approved February 25, 1945.

SENATE JOINT MEMORIAL NO. 1

A Joint Memorial of the Senate and of the House of Representatives of the State of Montana to the President and the Congress of the United States Relative to the Post-war Construction of an Adequate Tuberculosis Sanitarium for Indians at a Suitable Location Within the State of Montana.

To the President of the United States and to the Honorable Senate and House of Representatives of the United States in Congress Assembled:

WHEREAS, there is within Montana a large Indian population on numerous Indian reservations; and

WHEREAS, the people of Montana are deeply concerned with the extremely high death rate of Montana Indians from tuberculosis; and

WHEREAS, there are no existing special facilities within the state for their treatment and hospitalization;

NOW, THEREFORE, BE IT RESOLVED, that the senate of the State of Montana, and the house of representatives concurring, strongly urge that the congress of the United States include in the federal post-war building program an appropriation for the construction and equipment of an adequate tuberculosis sanitarium for Indians at some suitable location within the State of Montana;

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded by the secretary of state to the president of the United States, to the vice-president of the United States, to the speaker of the house of representatives of the United States, to the senators and representatives in congress from this state, to the secretary of the interior and to the commissioner of Indian affairs.

Approved February 25, 1945.

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SENATE JOINT MEMORIAL NO. 2

A Senate Joint Memorial to the Honorable Harold L. Ickes, Secretary of the Interior, and to the Fish and Wild Life Service; Petitioning That An All-weather Highway Be Constructed Along the Shoreline of Fort Peck Lake.

Your Memorialists, the Members of the Legislative Assembly of the State of Montana, the Senate and House Concurring, Respectfully Request As Follows:

WHEREAS, Fort Peck lake has now developed into a recreational area of first importance and with its unexcelled fishing, boating and similar sports, its immense size and long shoreline, it will become one of the largest and best vacation spots in the northwest, to the extent that after the war this lake will be a Mecca for tourists and vacationists; and

WHEREAS, in order to make the lake accessible and its recreational facilities and advantages brought within reach of all, it is necessary that an all-weather highway be constructed along the shoreline thereof with similar highways leading therefrom to the outside world;

NOW, THEREFORE, your memorialists, do hereby petition and urge the construction of such highway be made an urgent and necessary postwar project so that this lake may easily be reached by everyone and that the construction of said highway be commenced as soon as necessary funds can be made available therefor, and

BE IT FURTHER RESOLVED that a copy of this memorial be sent to the secretary of the interior, to the bureau of fish and wild life service, Merchandise Mart, Chicago, Illinois, and to the senators and representatives of Montana in congress.

Approved February 23, 1945.

SENATE JOINT MEMORIAL NO. 3

A Senate Joint Memorial to the Governor of the State of Montana Requesting the Declaration of the Recognition of Fort Benton As a Place of Prominence in the History of the State of Montana.

To His Excellency, the Governor, the Honorable Governor Sam C. Ford of the State of Montana:

Your Memorialists, the Members of the Twenty-ninth Legislative Assembly of the State of Montana, the House and the Senate Concurring, Respectfully Represent:

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WHEREAS, the city of Fort Benton was founded in the year, 1846; and,

WHEREAS, the city of Fort Benton was the head of the river traffic in the early history of Montana; and,

WHEREAS, Fort Benton was first visited by Lewis and Clark in 1804; and,

WHEREAS, the twenty-first legislative assembly in 1929 passed an act designating Fort Benton as a place for the erection of a memorial commemorating the Lewis and Clark expedition and setting up a commission of three persons to commemorate the exploration by the Lewis and Clark expedition; and,

WHEREAS, the Lewis and Clark trail is now being marked and a commission has been set up for that purpose; and,

WHEREAS, the city of Fort Benton is about to celebrate its centennial anniversary,

NOW, THEREFORE, BE IT RESOLVED, that in the sense and desire of your memorialists, the legislative assembly of the State of Montana, that the governor of the State of Montana should issue a proclamation declaring Fort Benton to be a place of historical renown in the history of Montana and designating the centennial anniversary as a state celebration.

Approved February 24, 1945.

SENATE JOINT MEMORIAL NO. 5

A Joint Memorial to the Fish and Wildlife Service, Chicago, Illinois, Petitioning Said Fish and Wildlife Service for a More Applicable Season On Migratory Waterfowl in the State of Montana.

WHEREAS, the season on migratory waterfowl in Montana has been unsatisfactory for many years; and

WHEREAS, the State of Montana is not suited geographically for one migratory waterfowl zone; and

WHEREAS, hundreds of thousands of migratory waterfowl winter in Montana annually; and

WHEREAS, the Montana wildlife federation unanimously favors this resolution,

NOW, THEREFORE, BE IT RESOLVED by the twenty-ninth legislative session in the State of Montana, the senate and house of

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representatives concurring, that we respectfully petition the fish and wildlife service that the season on migratory waterfowl open on or about September twenty-fifth each year and remain open for ninety consecutive days, or, the State of Montana be divided into two zones, separating the eastern part of the state from the remainder and that the eastern section be put in the northern zone and the remainder in the intermediate zone, and that the hours of shooting be extended to include one-half an hour after sundown, and

BE IT FURTHER RESOLVED THAT, the secretary of the senate be directed to mail copies of this resolution to the fish and wildlife service, Merchandise Mart, Chicago, Illinois; the Honorable Burton K. Wheeler, Honorable James E. Murray, senators from Montana; the Honorable Mike Mansfield, representative in congress; the honorable president of the United States senate and the honorable speaker of the house of representatives, of the congress of the United States.

Approved February 25, 1945.

SENATE JOINT MEMORIAL NO. 6

A Joint Memorial of the Senate and House of Representatives of the State of Montana Memorializing the Congress of the United States to Enact Senate Joint Resolution No. 8, Establishing a Procedure by Which Federal Spending and Federal Income Would Be Balanced Except in Specified Emergencies.

WHEREAS the federal government debt and need for operating funds in the post-war period will strain the fiscal foundations of our government; and

WHEREAS fiscal stability under these conditions demands a constitutional directive which would restrict and limit expenditures to the income provided to meet and take care of the same; and

WHEREAS senate joint resolution, introduced in the senate of the United States, January 10, 1945, proposes to submit to the legislatures of the several states for their ratification a constitutional amendment with the following provisions:

"On the first day of each regular session, the president shall transmit to the congress his estimates of the receipts of the government during the ensuing fiscal year under the laws existing on such date, together with his recommendations as to the purposes for which such receipts shall be expended, and, except in time of war or during the period ending on the date of the expiration of one full fiscal year after the termination thereof, the congress shall not appropriate money for

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expenditure during such fiscal year in excess of such estimated receipts, as transmitted or as modified or revised by the president, except by a vote of three-fifths of each house taken by yeas and nays, unless prior to the making of such appropriation the congress shall have imposed such taxes, duties, imposts, or excises as will raise additional revenues equal to the amount by which such appropriation exceeds such estimated receipts, or unless such appropriation be for the purpose of paying the expenses and contingencies of the congress or the courts, or for the payment of claims against the United States, the justice of which shall have been judicially declared by such tribunal as may be established by the congress for the investigation of claims against the government."

NOW, THEREFORE, BE IT RESOLVED by the senate, the house of representatives concurring, that the Montana legislative assembly urges the congress of the United States to enact senate joint resolution No. 8;

AND BE IT FURTHER RESOLVED that copies of this memorial be transmitted by the secretary of state to the president of the United States, to the vice-president of the United States, and to the speaker of the house of representatives, and to the Montana members of the senate and house of representatives in congress.

Approved February 28, 1945.

SENATE JOINT MEMORIAL NO. 7

A Joint Memorial of the Senate and of the House of Representatives of the State of Montana to the Congress of the United States, United States Senators B. K. Wheeler and James E. Murray and Representative Mike Mansfield, for An Act of Congress Amending the First Paragraph of Section 11 of the Act of Congress Approved February 22, 1889 (25 Stat. 676) Relating to the Admission Into the Union of the States of North Dakota, South Dakota, Montana and Wyoming, As Amended by the Act of Congress of May 7, 1932, Relating to the Disposal of Lands Granted to the State of Montana Under the Former Act.

WHEREAS, of the lands granted to the State of Montana by the act of congress approved February 22, 1889 (25 Stat. 676) there remain numerous isolated tracts of less than one (1) section in area, which, because of their topography or barren state of nature, are incapable of producing agricultural crops and have little value for grazing or any other purpose; and

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WHEREAS, it is in the best interests of the State of Montana and the purposes of said act of congress to dispose of these tracts which form a kind of no man's land in their respective districts and have a value of less than five dollars ($5.00) per acre;

NOW, THEREFORE, BE IT RESOLVED by the twenty-ninth session of the legislative assembly of the State of Montana, the senate and house of representatives concurring, that the congress of the United States be, and it is hereby, requested to amend said paragraph 1 of said section 11 of the act of congress approved February 22, 1889 (25 Stat. 676) as amended by the act of congress approved May 7, 1932, to read as follows, to-wit:

"That all lands granted by this act shall be disposed of only at public sale after advertising—tillable lands capable of producing agricultural crops for not less than ten dollars ($10.00) per acre, and lands principally valuable for grazing purposes for not less than five dollars ($5.00) per acre, *provided that, excepting the minerals, oil and gas contained therein, with the right to explore for and remove the same, isolated tracts of less than one (1) section each, not capable of producing agricultural crops, and which, because of topography or barren state of nature, have but little value for grazing purposes, may be so disposed of for not less than fifty cents ($.50) per acre.* Any of the said lands may be exchanged for other lands, public or private, of equal value and as near as may be of equal area, but if any of the said lands are exchanged with the United States such exchange shall be limited to surveyed, nonmineral, unreserved public lands of the United States within the state."

BE IT FURTHER RESOLVED, that copies of this joint memorial be forwarded to the congress of the United States, to United States Senators B. K. Wheeler and James E. Murray, and to Representative Mike Mansfield, all of Washington, D. C.

Approved February 24, 1945.

SENATE JOINT MEMORIAL NO. 9

A Joint Memorial of the Senate and of the House of Representatives of the State of Montana, to the President of the United States; Secretary of War; the United States Senators, B. K. Wheeler and James E. Murray; and Representative Mike Mansfield; Requesting That the Government, At the Earliest Possible Date, Restore Standard Time Throughout the Nation.

We, the Members of the Twenty-ninth Legislative Assembly of the

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State of Montana, the Senate and House of Representatives Concurring, Respectfully Represent,

WHEREAS, there has been much dissatisfaction with the order placing the nation on a standard of war time; and

WHEREAS, this is extremely disadvantageous particularly to the farmers and stockmen of the state as the order completely sets aside the long practiced rules in the agricultural and stock-raising districts; and

WHEREAS, said change of time in the winter months is very disadvantageous in the transporting of children from rural districts to schools; and

WHEREAS, a local change in time would be a conflict with the time used by interstate commerce;

NOW, THEREFORE, BE IT RESOLVED by the senate of the State of Montana, and the house of representatives concurring, that the president and congress do all in their power to restore the nation to standard time as soon as feasible;

BE IT FURTHER RESOLVED, that copies of this memorial be transmitted by the secretary of state to the hereinabove mentioned officials.

Approved February 23, 1945.

SENATE JOINT MEMORIAL NO. 10

A Joint Memorial of the Senate and House of Representatives of the State of Montana Requesting That the National and State Selective Service Organizations Consider the Tydings Amendment to the Selective Service Act in Deferring Essential Farm Workers from Military Service.

WHEREAS, there has been a serious decline in the past two years of the production of wheat, flax, barley, sugar beets and hogs in the State of Montana, due largely to the critical shortage of farm labor; and

WHEREAS, there is grave danger of the production of these essential food products continuing to decline sharply; and

WHEREAS, the number of enlistments in the armed service of the United States from Montana is exceedingly high in proportion to the actual population; and

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WHEREAS, the Tydings amendment to the selective service act particularly provides for deferments of essential farm workers;

NOW, THEREFORE, BE IT RESOLVED, that the federal and state selective service boards fully consider the acute situation in Montana and apply the provisions of the Tydings amendment in order that essential food products for our armed forces shall not continue to decline;

BE IT FURTHER RESOLVED, that a copy of this resolution be transmitted to the president of the United States, the national selective service board, General Mitchell of the Montana selective service board and to the Montana delegation in congress

Approved February 23, 1945.

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CHANGES OF NAMES DECREED IN 1943-1944

Date of Judgment	Original Name	Name Decreed	Residence
June 16, 1943	Bruce Wesley Allen	Bruce Allen Moon	Great Falls, Mont.
Nov. 27, 1943	Astrid Hildegard Arnoldson	Astrid Arnoldson	Missoula, Mont.
Mar. 23, 1944	Mitchell Frank Sharkey sometimes spelled Shareckl	Mitchell Frank Clawson	Hardin, Mont.
†April 23, 1943	Wal Sam Li	Samuel William Lee	Fergus County
July 24, 1943	Viola Gail McCracken	Viola Gail Hohmann	Lewistown, Mont.
*June 4, 1943	Anna Marie Stevenson	Darlene Anne Stephens	Lewistown, Mont.
*July 20, 1943	Clarence Alfred Brownlee	Clarence Alfred Brown	Lewistown, Mont.
*July 20, 1943	Leslie Lorraine Brownlee	Leslie Lorraine Brown	Lewistown, Mont.
*July 20, 1943	John LeRoy Brownlee	John LeRoy Brown	Lewistown, Mont.
*July 20, 1943	Barron King Brownlee	Barron King Brown	Lewistown, Mont.
*July 20, 1943	Mildred Lenore Brownlee	Mildred Lenore Brown	Lewistown, Mont.
*Sept. 8, 1943	Betty Lee Dess	Betty Lee O'Connell	Lewistown, Mont.
*Sept 11, 1943	Lenora Ellen Eld	Lenora Ellen Hassett	Winnett, Mont.
*Oct. 8, 1943	Karen Yvonne Chapman	Mary Louise McDonald	Danvers, Mont.
Sept. 8, 1943	Everett Lloyd Appelgate	Frank Lloyd Vernon	Wolf Point, Mont.
Feb. 9, 1943	Mary E. Andolsek	Mary Earley Ashley	Park County
Aug. 10, 1943	Fred Nipple	Fred Nile	Forsyth, Mont.
Aug. 10, 1943	Edith Lyle Nipple	Edith Lyle Nile	Forsyth, Mont.
Aug. 10, 1943	Kathryn Annabelle Nipple	Kathryn Annabelle Nile	Forsyth, Mont.
Aug. 10, 1943	Ralph Tracy Nipple	Ralph Tracy Nile	Forsyth, Mont.
Aug. 10, 1943	Opal Grace Nipple	Opal Grace Nile	Forsyth, Mont.
Aug. 10, 1943	Ramon Tracy Nipple	Ramon Tracy Nile	Forsyth, Mont.
Aug. 10, 1943	Francis Bruce Nipple	Francis Bruce Nile	Forsyth, Mont.
Aug. 10, 1943	Theodore Leigh Nipple	Theodore Leigh Nile	Forsyth, Mont.
Aug. 10, 1943	Carol Mae Nipple	Carol Mae Nile	Forsyth, Mont.
Aug. 10, 1943	Ethelyn Marie Nipple	Ethelyn Marie Nile	Forsyth, Mont.
Aug. 10, 1943	Larry Leigh Nipple	Larry Leigh Nile	Forsyth, Mont.
Aug. 10, 1943	James DeLyle Nipple	James DeLyle Nile	Forsyth, Mont.
Aug. 10, 1943	Betty Moree Nipple	Betty Moree Nile	Forsyth, Mont.
Aug. 10, 1943	James Louis Nipple	James Louis Nile	Forsyth, Mont.
Aug. 10, 1943	Frederick Vern Nipple	Frederick Vern Nile	Forsyth, Mont.
Aug. 10, 1943	Ruth Marie Nipple	Ruth Marie Nile	Forsyth, Mont.
Aug. 10, 1943	Edith Evaline Nipple	Edith Evaline Nile	Forsyth, Mont.
Aug. 10, 1943	Verna Marie Nipple	Verna Marie Nile	Forsyth, Mont.
Aug. 10, 1943	Wilfred Smith Nipple	Wilfred Smith Nile	Forsyth, Mont.
Aug. 10, 1943	Mary Jane Nipple	Mary Jane Nile	Forsyth, Mont.

†Naturalization
*Adoption

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CHANGES OF NAMES DECREED IN 1943-1944

Date of Judgment	Original Name	Name Decreed	Residence
Jan. 25, 1943	John Garfield Wakem	John Garfield Willoughby	Butte, Mont.
Jan. 25, 1943	Cyril James Wakem	Cyril James Willoughby	Butte, Mont.
Feb. 1, 1943	Irving Levin	Irving Lindeen	Butte, Mont.
Mar. 11, 1943	Valentine H. Peters	Valentine H. Carlow	Butte, Mont.
June 5, 1943	Patricia Genevieve Murtha	Patricia Genevieve Duggan	Butte, Mont.
June 26, 1943	Eric Freudenreich	Eric Frederick	Butte, Mont.
July 31, 1943	James Arthur Matthews	James Arthur Eddy	Butte, Mont.
Aug. 16, 1943	Charles Matthew Whitehead	Charles Matthew Larson	Butte, Mont.
Sept. 27, 1943	Frank Peter Roletto	Frank Neil Prosa	Butte, Mont.
Nov. 6, 1943	Aristide Demitri Gavalas	Steven Gavalas	Butte, Mont.
July 12, 1943	Guy Arthur Hibner	Guy Arthur Jorgenson	Perma, Mont.
Mar. 15, 1943	Frank Joseph Watski	Allyn Montemorency DeMarr	Billings, Mont.
Mar. 19, 1943	Johanna Mastin	Johanna Sanderson	Billings, Mont.
Mar. 19, 1943	Ruth Mastin	Ruth Sanderson	Billings, Mont.
Mar. 19, 1943	Emma Mastin	Emma Sanderson	Billings, Mont.
May 28, 1943	Nettie Mae Keefe	Jeanette Winifred Keefe	Billings, Mont.
Dec. 31, 1943	Alfred Maynard Hewlett	Alfred Maynard Sarles	Billings, Mont.
Apr. 26, 1943	Bertha Ingrid Ketola	Betty Ingrid Ketola	Helena, Mont.
June 25, 1943	Henry McClain Owl	Henry McClain Harris	Heart Butte, Mont.
June 25, 1943	Frederick Weeks Owl	Frederick Weeks Harris	Heart Butte, Mont.
June 25, 1943	Grace Owl	Grace Harris	Heart Butte, Mont.
June 25, 1943	Frances Owl	Frances Harris	Heart Butte, Mont.
June 25, 1943	Gladys Owl	Gladys Harris	Heart Butte, Mont.
†Sept. 10, 1943	Bastiaan vander Jacht	Bert Vander Jagt	Teton County
Aug. 29, 1944	Betty Carol Clark	Betty Carol Patterson	Park County
June 3, 1944	Roy Dennis Duignan	Roy Dennis Waugh	Ronan, Mont.
Apr. 3, 1944	Kathryn Joyce Conway	Kathryn Joyce Gee	Townsend, Mont.
Dec. 4, 1944	Robin Burch	Robin Burnett	Manhattan, Mont.
*Feb. 21, 1944	Frederick Keith Sorenson	Frederick Keith Scheytt	Bozeman, Mont.
*Apr. 24, 1944	Judy Ann Labertew	Judy Ann Hargrove	Gallatin Gateway
*May 15, 1944	Roger William Morton	John Joseph Reinhardt	Bozeman, Mont.
*Aug. 28, 1944	Kay McLean Albright	Kay McLean Caldwell	Bozeman, Mont.
*Aug. 28, 1944	Patty Jean Albright	Patty Jean Caldwell	Bozeman, Mont.
*Nov. 23, 1944	Karl Allen Tarpley	Thomas Roland Bangs	Bozeman, Mont.

†Naturalization
*Adoption

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CHANGES OF NAMES DECREED IN 1943-1944

Date of Judgment	Original Name	Name Decreed	Residence
*Nov. 13, 1944	Donald Vernon Mason	Alexander Stuart II	West Yellowstone
*Dec. 11, 1944	James Edward Denney	James Edward Parmly	West Yellowstone
*Jan. 17, 1944	Richard Lee Kenney	Richard Lee Christie	Gallatin Gateway
*Jan. 17, 1944	Dennis Albert Kenney	Dennis Albert Christie	Gallatin Gateway
*Feb. 7, 1944	Richard Elliott Griggs	Richard Elliott Brooks	Bozeman, Mont.
*Dec. 27, 1944	Margaret Viola Covey	Margaret Viola Todd	Bozeman, Mont.
†May 27, 1944	Ryk Van der vos	Richard Van der vos	Manhattan, Mont.
†Aug. 28, 1944	Ole Olson Berge	Ole Olson	Three Forks, Mont.
†Aug. 28, 1944	Arcangelo Luigi Vecellio Del Monego	Albert L. Vecellio	Bozeman, Mont.
Mar. 20, 1944	Harold Gilbert Peltzer	Daniel Harold Kelley	Helena, Mont.
Apr. 22, 1944	Andre Victor Napoleon Franchie	Andre Victor Van Francenen	Helena, Mont.
May 24, 1944	Chris Harry Rutherford	Chris Harry Gardner	Helena, Mont.
Aug. 28, 1944	Montana State Conference of the Methodist Episcopal Church to The Montana Conference of the Methodist Church		
Aug. 14, 1944	Mose Luther Wright	Amos Luther Wright	Dixon, Mont.
Oct. 10, 1944	Charles C. Speiser	Karl Debonko Speiser	Ekalaka, Mont.
Mar. 30, 1944	Ernest Wilmer Ivie	Ernest Wilmer Strong	Deer Lodge County
Apr. 8, 1944	Anton Kapuscinski	Anton Kapus	Deer Lodge County
June 27, 1944	Shirley Branson	Shirley Marie Ryan	Chinook, Mont.
May 28, 1943	Gerald LeRoy Robertson	Gerald LeRoy Romig	Missoula, Mont.
Aug. 20, 1943	Royse Harlan Covetts	Royse Harlan Brill	Missoula, Mont.
Jan. 14, 1944	Max Bernard Mysliwiec	Max Bernard Hunter	Missoula, Mont.
Mar. 31, 1944	Frederick James Martin	Frederick James Wulle	Missoula, Mont.
Mar. 31, 1944	Bertha Flink Martin	Bertha Flink Wulle	Missoula, Mont.
Mar. 31, 1944	Frederick Leonard Martin	Frederick Leonard Wulle	Missoula, Mont.
Mar. 31, 1944	Lorraine May Martin	Lorraine May Wulle	Missoula, Mont.
Mar. 31, 1944	Lois Anne Martin	Lois Anne Wulle	Missoula, Mont.

†Naturalization
*Adoption

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GENERAL INDEX

NOTE:

Index of Appropriations Follows General Index

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